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**\*Editor's note**—Printed herein is the Charter of the City, as adopted in 1913, as amended. Amendments are indicated by parenthetical history notes following amended provisions. Amendments passed on or before July 9, 1954, are not listed in the history notes. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

The editor's note to the Charter as printed in the 1969 Code provided as follows: The catchlines appearing in boldface type at the beginning of each section of the Charter were supplied by the editors of the volume and are therefore not official. The word "commission" has been changed to "council" throughout the Charter and amendments thereto, since the official name of the governing body of the City is now "city council."

**State law reference**—Authority of City to frame its own charter, Az. Const. art. 13, § 2, A.R.S. §§ 9-281—9-283.

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## PREAMBLE

We, the people of the city of Phoenix, a city incorporated under the name and style of "The Common Council of the City of Phoenix," now having a population of more than three thousand five hundred (3500), acting in this behalf under the Constitution and laws of the State of Arizona, have framed, adopted and ordained, and do hereby frame, adopt and ordain, the following as the Charter of said city, which shall supersede, as provided in the Constitution of the State, the Charter of the said "The Common Council of the City of Phoenix," and all laws amendatory thereof and supplementary thereto.

## CHAPTER I. NAME AND BOUNDARIES

### Sec. 1. Name; source of authority.

The municipal corporation now existing and known as "The Common Council of the City of Phoenix" shall remain and continue to be a body politic and corporate under the name of "City of Phoenix," and shall have all the powers necessary, proper or convenient for the government and regulation of its inhabitants and its local affairs, the exercise of which are not forbidden by the Constitution of the United States or the Constitution or laws of the State of Arizona, including those hereinafter enumerated in subsequent chapters of this Charter, as well as those enumerated in Section 3 of Chapter 11 of the acts of the first special session of the First Legislature of Arizona, entitled "An Act to enable all cities, now or hereafter containing a population of more than three thousand five hundred, to frame and adopt Charters for their own government, and to extend and define their own powers," approved June 8, 1912.

### Sec. 2. Boundaries.

**Editor's note**—The City's boundaries are not carried in this Charter. A legal copy of the boundaries is on file in the office of the City Clerk.

In *Amish v. City of Phoenix et al.*, 36 Ariz., 282 p. 42, the court held that a change in the boundaries of the City, made in accordance with the provisions of Section 8 of Chapter XXI, is not a Charter amendment and is, therefore, valid.

**State law reference**—Annexation, A.R.S. § 9-471 et seq.

## CHAPTER II. GENERAL POWERS, RIGHTS AND LIABILITIES

### Sec. 1. Rights and liabilities to continue; powers as a municipal corporation.

The said corporation, the City of Phoenix:

- (a) Shall own, possess, control, exercise and enjoy all of the books, records, documents, and all of the property, real, personal and mixed, and all of the rights, privileges and franchises, powers and immunities now belonging to, possessed or exercised by the municipal corporation known as "The Common Council of the City of Phoenix."
- (b) It shall be subject to and liable for all the legal debts, liabilities, judgements, bonds, and all other legal obligations for which the said corporation, "The Common Council of the City of Phoenix," is now or may hereafter become legally bound.
- (c) It may sue and be sued, plead and be impleaded, in all courts of law or equity, in all actions and proceedings whatsoever; adopt a seal and may alter the same; contract and be contracted with; lease, trade, exchange or acquire and hold real, personal or mixed property for the purpose for which it was incor-

porated, and do all acts which might be done by a private person, and all such acts and things necessary or proper for a municipal corporation to do to carry out the purpose for which it is incorporated.

(Election of 11-9-1971)

## Sec. 2. Rights and powers generally.

Without denial or disparagement of other powers held under the constitution and laws of the State of Arizona, and by virtue of its being continued in the rights, powers and property of "The Common Council of the City of Phoenix," the City of Phoenix shall have the further rights and powers, to wit:

- (a) To acquire by purchase, condemnation or otherwise, and to establish, maintain, equip, own and operate libraries, reading rooms, art galleries, museums, parks, playgrounds and places of recreation, fountains, public baths, public toilets, public markets, market houses, abattoirs, dispensaries, infirmaries, hospitals, charitable institutions, jails, houses of correction, work houses, detention homes, morgues, cemeteries, garbage collection and garbage disposal and reduction works, sewers, street cleaning and sprinkling plants, quarries, waterways, canals and all other public buildings, places, works and institutions.
- (b) To acquire by purchase, condemnation or otherwise, and to establish, equip, own and operate, waterworks, gas works, sewage systems, electric light plants, refrigeration, heat and power plants within and without the City of Phoenix, and to supply the city and its inhabitants and also persons, firms and corporations, outside of said city, with water, gas and electricity.
- (c) To acquire by purchase, condemnation or otherwise, and to establish, maintain, equip, own and operate, telephone and telegraph systems, cable, electric or other railways and transportation service of any kind.
- (d) To sell gas, water, electric currents and all products of any public utility operated by the city.
- (e) To acquire by purchase, condemnation or otherwise, within or without the city, such land and other property as may be necessary for the establishment, maintenance and operation of any public utility or to provide for and effectuate any other public purpose; and to sell, convey and dispose of the same for the common benefit.
- (f) To receive bequests, donations and gifts of all kinds of property, in fee simple, or in trust for charitable and other purposes, and to do all acts necessary to carry out the purposes of such bequests, gifts and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the bequest, gift or donation of trust, or absolutely in case such bequest, gift or trust be unconditional.
- (g) To borrow money for any of the purposes for which the city is authorized to provide for the carrying out any of the powers which the city is authorized to enjoy and exercise, and to issue bonds therefor, provided, that in the procedure for the creation and issuance of such bonded indebtedness the general laws of the State of Arizona in force at the time such proceedings are taken shall be observed and followed.

- (h) To raise money by a special tax, in addition to the annual tax levy provided for in this Charter, to authorize such special tax the provisions of this Charter relative to the initiative and referendum shall be followed, and the levy of such tax must be approved by at least two-thirds of the property taxpayers, who shall be qualified electors of the State and the City.
- (i) To join with the United States, State of Arizona, any political subdivision, board, commission, agency or combination of them in order to acquire and develop, jointly or severally, water, electricity, gas, nuclear energy, sewer, transportation and other systems for municipal and domestic purposes, and construct the works necessary for their joint and several purposes and needs, and to unite with such entities in bond issues therefor. To exercise any of its powers or perform any of its functions and may participate in the financing thereof jointly, or in cooperation by contract or otherwise, with any one or more states, political subdivisions thereof, school districts, Indian tribal councils, or any board, commission or agency of any of them, or with the United States or any department or agency thereof.
- (j) To engage in industrial pursuits and to do whatever may be necessary or proper therein.
- (k) To establish, maintain and operate municipal slaughter houses within or without the city limits, and to acquire the necessary lands and rights therefor by condemnation or otherwise.
- (l) To install, maintain and operate all necessary works, plants, institutions, depart-

ments, offices and systems, proper or convenient, or which may be conducive to the welfare, safety, good health, convenience or improvement of the City of Phoenix and the inhabitants thereof.

- (m) To have and exercise all powers conferred upon municipal corporations by the act of the first special session of the legislature of Arizona (Chapter LXVII) entitled, "an Act to authorize municipal corporations of the State of Arizona to sell and dispose of their real and personal property and prescribe the method thereof," approved June 21, 1912.

(Election of 11-9-1971)

**State law reference**—General municipal powers, A.R.S. §§ 9-499.01, 9-240, 9-276.

### **Sec. 3. Powers to be cumulative and selective.**

Whenever any power is conferred by this Charter, and whatever methods of procedure are provided for the exercise thereof, or if the power be conferred in different terms of two or more provisions thereof, such different expressions of either method or power shall not the one affect or modify the other but they shall also be deemed effective and be accumulative and selective.

### **Sec. 4. Legislative power of voters.**

The qualified voters of said City shall have the power through the initiative and otherwise, as provided by this Charter, the constitution and laws of the State, to enact appropriate legislation to carry out and enforce any of the above general powers of the City or any of the specified powers of the council of said City.

**State law reference**—Initiative, referendum and recall, A.R.S. § 19-101 et seq.

## CHAPTER III. GOVERNMENT

### **Sec. 1. Powers of City to be exercised by City Council; Mayor and Councilmen to be elected; City Manager to execute and administer laws; qualifications of Councilmen.**

The municipal government provided for by this Chapter shall be known as the "Council-Manager" government. All powers of the City shall be vested in the council to consist of the mayor and eight (8) other members to be elected by the qualified electors of the City of Phoenix as follows:

- (A) The mayor shall be elected from the City at large, pursuant to the election procedure (primary and general elections) specified in ordinances which are adopted according to law.
- (B) The eight other council members shall be elected from eight geographic districts within the City of Phoenix. Each district shall be substantially equal in population. Electors in each district shall vote only for the council candidates nominated from the district in which the electors reside.
- (C) Each candidate for one of the eight council seats shall at the time of his nomination and during his tenure maintain his permanent residence within the district from which he is nominated.
- (D) No candidate for the eight council seats may run for more than one district in any regular election.
- (E) The members of the council shall be qualified electors of the City of Phoenix and shall hold no other public office for which they shall receive compensation except that of a notary public, a member of the school board or member of the

National Guard or Naval or Military Reserve; if a councilman shall cease to possess any of these qualifications or violate any provisions of this Chapter or shall be convicted of a crime involving moral turpitude his office shall immediately become vacant.

The council shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by the Charter, or if the manner has not been prescribed, then in such manner as may be prescribed by ordinance. (Election of 12-1-1982; election of 11-1-1983)

### **Sec. 2. The City Manager.**

A. The city manager shall be the chief administrative officer of the city. He shall be responsible to the council for the proper administration of all affairs of the city; the City Manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as set forth in this Charter;

The Manager need not when appointed be a resident of the City or State, except as may be otherwise provided by law, but must be a citizen of the United States. He shall, upon his appointment, become a resident of the city;

No member of the council shall, during the time for which he was elected or for one (1) year thereafter be eligible to hold the position of City Manager.

The council shall appoint the City Manager for an indefinite term and may remove him without cause by the affirmative vote of two thirds of its members: provided, that for incom-

petence, malfeasance, misfeasance, or neglect of duty the City Manager may be removed by the affirmative vote of a majority of its members. At least thirty (30) days before the passage of a resolution for such removal, the Council shall by a majority vote of its members adopt a preliminary resolution of intention, and, if the removal is for cause, said resolution shall state the reason for removal. In either case the City Manager may within ten (10) days reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days from the passage of the aforesaid preliminary resolution. After such public hearing, if one be requested, and after full consideration, but not earlier than thirty (30) days after the passage of the preliminary resolution, the Council may adopt a final resolution of removal. By the preliminary resolution the Council may suspend the Manager from duty. If the removal is for cause the Council shall cause to be paid him any salary due him to the date of the preliminary resolution and suspension. Otherwise, the Manager shall be paid forthwith upon his removal without cause his salary for the next three (3) calendar months following the adoption of the preliminary resolution of removal.

The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the Council.

The Manager shall receive a salary to be fixed by ordinance.

To perform his duties during the temporary absence or disability of both the Manager and Assistant Manager, the Manager shall designate by letter filed with the City Clerk, a qualified administrative officer of the City. In the event of failure of the Manager to make such

designation, the Council may by resolution appoint an officer of the City to perform the duties of the Manager until the Manager or Assistant Manager is able to perform those duties. In the event of a vacancy in the office of the City Manager the Council shall fill the same within sixty days after the vacancy occurs. The City Manager shall have the right to appoint his personal secretary and the assistant City Manager, neither of whom shall be subject to the civil service of the City of Phoenix.

The position of Assistant City Manager is hereby elevated to the "Office of Assistant City Manager" and he shall be the Deputy Chief Administrative Officer of the City of Phoenix. While the City Manager is exercising the prerogatives of his office, the Assistant City Manager shall perform such functions and have such duties and responsibilities as the City Manager may designate. In the absence of the City Manager, or when the City Manager is unable to perform the prerogatives of his office, or when the office of City Manager is vacant, the Assistant City Manager shall ascend to all of the powers and duties of the City Manager as set forth in this Charter.

*B. Powers and duties of the City Manager.*  
The City Manager shall have the following powers and duties:

- (1) He shall appoint and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers except as otherwise provided by law or this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

- (2) He shall direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or by law.
- (3) He shall attend all Council meetings, unless excused by the City Council, and if excused shall be represented by someone designated by him. He shall have the right to take part in discussion but may not vote.
- (4) He shall, subject to the legislative and emergency powers of the Mayor and City Council, see that all ordinances, provisions of this Charter, and acts of the Council are faithfully executed, through enforcement by him or by officers subject to his direction and supervision. He may, however, at his sole discretion, enter into agreements to authorize private entities to enforce civil ordinances regulating conduct on transit vehicles, property, and facilities.
- (5) He shall prepare and submit the proposed annual budget and the capital improvement program to the City Council.
- (6) He shall first submit to the Council and thereafter make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of the City departments, offices, and agencies which are subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make recommen-

dations to the Council concerning the affairs of the City.

- (9) He shall perform such other duties as are specified in this Charter or required by the Council.

(Election of 11-4-1975; election of 3-12-2013, eff. 6-17-2013)

**Sec. 3. Creation, etc., of offices, etc.; department heads generally; divisions of departments; appointment of members of agencies, etc.**

Upon recommendation of the City Manager the Council by ordinance may create, change and abolish offices, departments or agencies, boards and commissions, except the Civil Service Board and the Phoenix City Employees' Retirement System and the Parks, Playgrounds and Recreational Board.

At the head of each department there shall be a director who shall be an officer of the City and shall have supervision and control of the department subject to the City Manager. Two or more departments may be headed by the same individual. The Manager may head one or more departments and directors of departments may also serve as chiefs of divisions. The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the City Manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the Manager among specific division thereof, the Manager may establish temporary divisions. The appointment of all of the officers of the City shall devolve upon the City Manager. The Council shall appoint the members of all agencies, boards and commissions of the City created by the Charter or by ordinance.

**Sec. 4. Council and Councilmen to deal with City officers and employees through the City Manager.**

Neither the Council nor any of its Members shall direct or request the appointment of any person to, or his removal from, office by the City Manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the ad-



ministrative service of the City. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the City Manager and neither the council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Any member of the council violating the provisions of this section, or offering a resolution or ordinance in violation of this section, shall be removed from office as in this Charter elsewhere provided.

**Sec. 5. Absence of Mayor; vacancy in office of Mayor; vacancy of the member of Council; special terms; removal of Council member.**

A. During the absence or disability of the Mayor or when the office of Mayor is vacant, the Vice-Mayor shall act as Mayor pro tempore.

B. Vacancies in City of Phoenix elective offices shall be filled as follows:

(1) If a vacancy occurs 365 days or more prior to the end of the term, there shall be a special election held to fill the unexpired portion of the term subject to the following provisions:

- a. There shall be a period of 10 days from the date the vacancy occurs during which any person desiring to run for the vacant office must declare as a candidate for the office and, in the case of a council member desiring to run for the office of mayor, if necessary, resign the office of council member.
- b. The council shall within 10 days of the expiration of the period provided in subparagraph (a) of this paragraph or if any vacancies occur during this period, within 10

days of the expiration of the period provided in subparagraph (a) for the last vacancy, call a special election to fill the vacancy or vacancies to be held not less than 120 days from the date it is called.

- c. Candidates for vacant positions shall be entitled to circulate nomination petitions for the office as soon as the vacancies occur.
  - d. The procedure for nomination and election shall be the same as for the regular mayor and council election to the extent possible.
  - e. The council shall, not less than 12 days nor more than 15 days from the date any vacancy occurs under the provision of this paragraph, appoint, in the manner provided in paragraph (2)(b) through (h) of this subsection, a person to fill the vacant office for a term ending the first business day after the canvass of votes is completed following the election of a candidate to fill the unexpired term of the office, provided that if the office to be filled is that of mayor, the council member selected to serve during the interim until a new mayor is elected shall serve as mayor pro tempore and shall continue to serve as a district council member.
- (2) If a vacancy occurs less than 365 days prior to the end of the term but not less than 90 days prior to the next regular mayor and council election, the vacancy shall be filled by council appointment as follows:
- a. The council shall, within 10 days of a vacancy occurring, select a

person to serve the unexpired portion of the term in which the vacancy exists.

- b. In the case of a vacancy in the office of mayor the council shall select one of the remaining members of the council to serve as mayor for the remainder of the term.
- c. A vacancy in the office of council member shall be filled by a qualified elector residing in the district in which the vacancy exists.
- d. When selecting a new mayor, all council members present may participate and vote for any candidate for mayor.
- e. Vacancies in City of Phoenix elective offices shall be filled at public meetings and all votes shall be taken publicly.
- f. A majority of the total number of council positions shall constitute a quorum for purposes of filling a vacancy in a City of Phoenix elective office, provided that if less than a majority of the authorized positions on the council are filled, all council positions that are filled at that time shall constitute a quorum for the purpose of filling council vacancies until a majority of the authorized council positions are filled.
- g. Any council member may nominate a candidate to fill any vacancy with no second required. Candidates shall be voted upon individually in the order in which they were nominated. The first candidate receiving an affirmative ma-

majority of the votes of the council members present shall be selected to fill the vacancy.

- h. If after the end of the ten (10) day period provided in subparagraph (a) of this subparagraph, the vacancy remains unfilled, the council shall meet each day for the purpose of filling the vacancy until the vacancy is filled, provided that if the vacancy remains unfilled 90 days before the regular mayor and council election at which the office in which the vacancy exists is to be voted upon, the provision of paragraph (3) of this subsection shall become applicable.
- (3) If a vacancy occurs less than 90 days prior to the regular mayor and council election at which the office in which the vacancy exists is to be voted upon, the council may leave the office vacant or may at any time prior to the expiration of the term fill the vacancy by appointment as provided in paragraph (2)(b) through (h) of this subsection.

C. Such vacancy shall exist, except under the recall provisions of this Charter, when an elective officer fails to qualify within thirty (30) days after commencement of his term, dies, resigns, removes from the City, absents himself continuously for thirty (30) days from the duties of his office without the consent of the Council, is convicted of violating any of the provisions of this Charter, or of a felony, or is judicially declared a lunatic or incompetent as defined by statute.

(Election of 10-1-1991; election of 10-5-1993)

**Sec. 6. Mayor and members of Council to continue until successors qualify; dates of elections; terms of Mayor and Council members; limitation of terms.**

A. The Mayor and Council Members all shall serve until their successors have been elected and have qualified as hereinafter provided.

B. The Mayor and Council Election shall be held on the first Tuesday in October and the Runoff Election shall be held on the Fourth Tuesday of November of every odd-numbered year.

C. In 1991 the Mayor and Council Members from Districts 1, 3, 5 and 7 shall be elected for terms of four years and Council Members from Districts 2, 4, 6 and 8 shall be elected for terms of two years, thereafter the Mayor and all Council Members shall be elected for terms of four years.

D. No person shall serve as Mayor for more than two four year terms or as Council Member for more than three consecutive four year terms. This shall not prohibit a person who has served three consecutive four year terms as a Council Member from serving as Mayor nor shall it prohibit a person who has served two four year terms as Mayor from serving as a Council Member, nor shall service of any term or terms of less than four years by election or appointment prohibit a person from serving two four year terms as Mayor and three consecutive four year terms as a Council Member.

E. The term of the Mayor and Council Members shall commence at 10:00 o'clock A.M., on the first business day in January following their election.  
(Election of 10-3-1989; Election of 11-6-2001)

**Sec. 7. Salary of Mayor stipulated; contingent fund.**

The salary of the mayor shall be six thousand dollars per year, payable in semi-monthly installments. In addition to his salary, the mayor shall have a contingent fund of two thousand dollars (\$2000.00) in each year payable as he may require the same, on his own warrants, out of any funds in the city treasury, not otherwise appropriated, and may expend the same as such mayor, at his discretion.

Section 7 provides for the salary of the Mayor to be fifteen thousand dollars per year, effective January, 1974.  
(Election of 11-13-1973)

**Editor's note**—See the editor's note following ch. 3, § 12.

**Sec. 8. [Reserved.]**

**Editor's note**—Section 8 was repealed at the election of November 5, 1985.

**Sec. 9. Salaries generally.**

A. The salaries applicable to all positions in the classified and unclassified civil service may be fixed, increased, decreased or modified by the Council only upon recommendation of the City Manager; provided, that the Council alone at the time it finally adopts the annual budget may fix, increase, decrease or modify the salaries applicable to any position in the classified or unclassified civil service, except the salaries of the Mayor and members of the City Council, and except for those previously established by a duly executed and approved Memorandum of Understanding which does not exceed three years in duration.

B. No officer or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation aside from the salary as fixed by law. All fees in connection with official duties shall be paid into the City Treasury daily.  
(Election of 11-3-1981)

**Sec. 10. Interpretation of words "Commissioner" and "Council."**

Whenever in the Charter, the words "Commissioner" or "Council" are used, it shall mean the elected mayor and councilmen of the city.

**Sec. 11. [Reserved.]**

**Editor's note**—Section 11 was repealed at the election of November 5, 1985.

**Sec. 12. Mayor and Council Salary and Benefits; Citizens' Commission on Salaries for Elected City Officials.**

(a) Notwithstanding any other provisions of this Charter, the salaries for elected City officials shall be set in conformity with this Charter provision.

(b) There is hereby established a Citizens' Commission on Salaries for Elected City Officials.

(c) The Commission shall be composed of a Chairman plus six (6) members who shall be appointed, from private citizens residing within the City, by the City Council for a term not to exceed three months, the first Commission to take office no earlier than January 1, 2005 and no later than March 31, 2005, and new appointments to be made every two (2) years thereafter, said members to take office on January 1 of each of said two-year periods.

- (1) Any vacancies in the membership shall be filled in the manner in which the original appointment was made for the balance of the term of the vacancy so filled.
- (2) The members of the Commission shall serve without compensation but shall be reimbursed for actual expenses. The City shall provide the Commission with

such staff as is necessary to perform its functions and shall provide record-keeping or other facilities as needed.

(d) The Commission shall, during its term, conduct a review of the rates of pay of elected City officials. Such review by the Commission shall be made for the purpose of determining and recommending pay levels appropriate to the duties and responsibilities of the positions covered by such review. The Commission may hold public hearings to aid in its work.

(e) The Commission shall submit to the City Clerk, no later than May 1, 2005 and on May 1st of every second year thereafter, a report of the results of each review conducted by the Commission together with its recommendations.

(f) The recommendations of the Commission as to salaries shall be certified by it to the City Clerk and the City Council shall submit to the qualified electors at the next regular municipal election the question, "Shall the recommendation of the Citizens' Commission on Salaries for Elected City Officials of \$ \_\_\_\_\_ per annum for the Mayor, and \$ \_\_\_\_\_ per annum for each Councilman be accepted? YES \_\_\_ NO \_\_\_." Such recommendations, if accepted by the electors, shall become effective at the beginning of the next regular council term.

(g) In the event the Commission recommends no change in salaries for the elected officials, it shall file such recommendation of no change with the City Clerk and no question shall be submitted to the electorate.

(h) In addition to the salary established pursuant to this section, the Mayor and Council shall be entitled to receive their choice of any

one of the benefit packages offered by the City. "*Benefit package*" does not include retirement benefits under Chapter 24 of this Charter. (Election of 11-13-1973; election of 9-9-2003, eff. 10-1-2003; election of 3-8-2005, eff. 3-22-2005)

**Editor's note**—By election dated November 1, 1983, the following was adopted by the electorate:

"Shall the recommendation of the Citizens' Commission of Salaries for Elected City Officials of \$37,500 per annum for the Mayor, and \$18,000 per annum for each Councilman be accepted?"

By election dated October 3, 1995, the following was adopted by the electorate:

"Shall the recommendation of the Citizens' Commission on Salaries for Elected City Officials of \$34,000 per annum for each Councilman be accepted?"

By election dated September 7, 1999, the following was adopted by the electorate:

"Shall the recommendation of the Citizens' Commission of Salaries for Elected City Officials of \$56,000 per annum for the Mayor, and \$36,000 per annum for each Councilman be accepted?"

By election dated September 9, 2003, the following was adopted by the electorate:

"Shall the recommendation of the Citizens' Commission of Salaries for Elected City Officials of \$62,800 per annum for the Mayor, and \$51,500 per annum for each Councilman be accepted?"

By election dated September 13, 2005, the following was adopted by the electorate:

"Shall the recommendation of the Citizens' Commission of Salaries for Elected City Officials of \$88,000 per annum for the Mayor, and \$61,600 per annum for each Councilman be accepted?"

## CHAPTER IV. THE COUNCIL

### Sec. 1. Legislative powers.

The legislative powers of the City of Phoenix shall be vested in and exercised by the Council except as herein limited or reserved to the electors of the City. The legislative powers of

the City shall extend to all rightful subjects of legislation not forbidden by the constitution or the United States, the constitution or laws of the State of Arizona, or the provisions of this Charter.

### Sec. 2. Powers enumerated.

As the legislative organ of the City of Phoenix, the Council, subject to the provisions and restrictions of this Charter, shall have the power by proper ordinances or resolutions, to carry out each and every power, right and privilege herein and hereby vested in the City of Phoenix, and by such legislation to enforce said rights, powers and obligations, and to secure the performance of all obligations and indebtedness to others. And in addition to the powers hereinabove enumerated and referred to, the City, and the Council acting for and in its behalf, shall have the further powers hereinafter enumerated and set forth, to-wit:

- (1) *Corporate seal.* To provide a corporate seal, with appropriate device, to be affixed to all instruments needing authentication, and to alter and change the same as it may deem proper and wise.
- (2) *Fines, forfeitures and penalties.* To prescribe fines, forfeitures and penalties for the violation of any provision of this Charter or of any ordinance, but no penalty shall exceed the limit which may be prescribed by the laws of the State of Arizona relative to incorporated cities and their powers.
- (3) *Abatement of nuisances.* To provide for the summary abatement of any nuisances at the expense of the person or persons creating, causing, committing or maintaining such nuisances.
- (4) *Rewards.* To offer rewards, not exceeding Ten Thousand (\$10,000) dollars in

any one instance for the apprehension and conviction of any person who may have committed a felony in the City, and to authorize the payment thereof.

(5) *Police and fire departments.*

(a) To organize and maintain police and fire departments, fire alarm and police telegraph and telephone systems, provide for the management and control of the same, for the appointment of superintendents thereof, also to erect and maintain suitable buildings, equipments and implements for said police and fire departments.

(b) Police and fire services, including emergency medical and emergency transportation, that are provided by City police officers and firefighters shall not be provided through the use of private contractors, unless approved by an affirmative vote of the qualified electors of the City, except as follows:

1. Administrative and support services.
2. Services associated with technological enhancements to these departments.
3. Retired City employees rehired on a temporary contract basis.
4. Services provided during a state of emergency declared by the Mayor pursuant to Chapter V, Section 4 of the Charter of the City of Phoenix.

(6) *Regulation of explosives.* To regulate or prohibit the manufacture, keeping, stor-

ing and using of powder, dynamite, gun cotton, nitroglycerine, fireworks and other explosive materials and substances.

(7) *Storage of inflammables.* To regulate the storage of hay, straw, oil and other inflammable and combustible materials.

(8) *Regulation of engines, boilers, gas and electric fixtures, etc.* To regulate the use of steam engines, gas engines, steam boilers and electric motors, and to prohibit their use in such localities as in the judgment of the Council would endanger public safety or health; also to regulate the installation of gas and electric fixtures and appliances and to provide for proper inspection of same.

(9) *Fire limits; regulation of buildings within fire limits.* To prescribe fire limits and determine the character and height of buildings that may be erected therein and the nature of the materials to be used in the construction, alteration or repair of such buildings or in the repair or alteration of existing buildings within such fire limits.

(10) *Regulation of buildings, sewers, wiring, etc.* To regulate the construction of and the materials used in all buildings, chimneys, stacks and other structures; and the construction and use of party walls; to prevent the erection and maintenance of unsafe or insecure buildings, walls, chimneys, stacks or other structures, and to provide for their summary abatement or destruction; to regulate the materials used in and the method of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes, and materials used in

pipng buildings or other structures for the purpose of supplying the same with water or gas and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

- (11) *Fire escapes and fire extinguishers.* To require the owners and lessees of buildings or other structures to place upon or in them adequate fire escapes and appliances for protection against fire and for the extinguishment of fires.
- (12) *Fire prevention generally.* To prevent the construction and to cause the removal of dangerous chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, apparatus and machinery used in any building in the City; to regulate the carrying on of manufactories liable to cause fire; to prevent the depositing of ashes, the accumulation of shavings, rubbish or any other combustible material in unsafe places, and to make all necessary provisions to guard against fires.
- (13) *Doors, hallways and exits.* To regulate the size and construction of the entrances to and exits from all theaters, lecture rooms, halls, schools, churches, hotels, office buildings, and buildings used for factory purposes, and other



places of a public gathering of every kind and to prevent the placing of seats, chairs, benches or other obstructions in the hallways, aisles or open places therein.

- (14) *Regulation of railroads, streetcars, automobiles, bicycles, etc.* To regulate the speed of railroad trains, engines and cars passing through the city and the speed of cars of street or interurban railways using the public streets of the city; to require railway companies to station flagmen, place gates or viaducts at all such street crossings as the council may deem proper; to require street cars and local trains to be provided with fenders or other appliances for the better protection of the public; to prohibit the making up of railroad trains on any of the streets, alleys, public places, street crossings or street intersections of the city, and prohibit the blocking of any crossing or intersection of any public thoroughfare with engines or cars for a period longer than five (5) minutes at one time; to regulate the speed with which persons may ride or drive or propel bicycles, automobiles or other vehicles along or upon the streets or highways of the city.
- (15) *Regulation of advertising, traffic, streets and public places generally.* To regulate or prohibit the exhibition or carrying of banners, placards or advertisements, and the distribution of handbills in the streets, public grounds, or upon the sidewalk; to regulate or prevent the flying of banners, flags or signs across the streets or from buildings; to regulate or prohibit traffic and sales in the streets, alleys or public places; to prevent encroachments upon or obstructions to the streets and to require their removal.
- (16) *Removal of dirt, rubbish and weeds.* To compel the owner or occupant of buildings or grounds to remove dirt, rubbish or weeds therefrom and from the sidewalks adjacent thereto; and in his default to authorize the removal or destruction thereof by some officer of the city at the expense of such owner or occupant and to make such expense a tax lien upon such buildings or grounds to be collected at the same time and in the same manner as other city taxes are collected, and to provide for the imposition of a penalty as in cases of misdemeanor for the failure of such owner or occupant to effect such removal.
- (17) *Billboards and signs.* To regulate, license or prohibit the construction and use of billboards and signs.
- (18) *Health regulations; regulation of hotels and apartments; regulation of garbage and trash collection and disposal; regulation of animals.* To make all regulations which may be necessary for the preservation of health and suppression of disease, including but not limited to regulation and inspection of food products, hotels, apartments, lodging houses; providing for the collection and disposal of garbage and trash; and regulating the keeping and running at large of animals.
- (19) [Reserved.]
- (20) *Cruelty to animals, sanitation of animals' living quarters.* To prohibit and punish cruelty to animals, and to require the places where they are kept to be maintained in a clean and healthful condition.
- (21) [Reserved.]

- (22) *Regulation of certain businesses and industries; suppression of noise.* To regulate, or prohibit the operation of manufactories, occupations or trades which may be of such a nature as to affect the public health or good order of the city or disturb the public peace, or which may be offensive or dangerous to the inhabitants residing in the vicinity; to provide for the punishment of all persons violating such regulations or who knowingly permit the same to be violated in any building or on premises owned or controlled by them; to make regulations for the suppression of disagreeable, offensive and injurious noises.
- (23) [Reserved.]
- (24) *Inspection of dairies.* To provide for and regulate the inspection of all dairies that offer for sale or sell any of their products, directly or indirectly, in the city.
- (25) [Reserved.]
- (26) *Sewers, sinks, gutters, etc.* To regulate the construction, repair, and use of sewers, sinks, gutters, cess pools and vaults, and to compel the connecting, cleaning or emptying of the same, and to designate the time and manner in which the work shall be done; and in case the owner of any property concerned shall fail to connect, clean, empty or repair such sewers, sinks, gutters, cess pools or vaults, to cause such connection, cleaning, emptying or repairing to be done by some officer of the City at the expense of such owner of the premises to be benefitted thereby, and to make such expense a tax lien upon the said premises, to be collected at the same time and in the same manner as other city taxes are collected.
- (27) [Reserved.]
- (28) *Authority to license businesses, etc.; fixing of rates and penalties of licenses.* To license, for the purpose of regulation and revenue, all and every kind of business, profession, calling, trade, or occupation not prohibited by law to be transacted or carried on in the city; to fix the rates of licenses upon the same and provide for the collection thereof by suit or otherwise; to provide penalties for transacting such businesses, professions, callings, trades, or occupations without license when the same is fixed and prescribed.
- (29) *Hack stands; regulation of charges of public vehicles for hire.* To establish stands for hacks, public carriages, express wagons, and other public vehicles for hire, and regulate the charges of such hacks, public carriages, express wagons and other public vehicles, and to require schedules of such charges to be posted in or upon such public vehicles.
- (30) *Weights and measures.* To provide for the inspection and sealing of all weights and measures in the city, and to enforce the keeping and use by dealers of proper weights and measures duly tested and sealed.
- (31) *Public shows, dance halls, gambling, etc.* To license, regulate, restrain or prohibit all theaters, exhibitions, public shows, dance halls, games and places of amusement; to prevent all descriptions of gambling and the using of any and all kinds of gambling devices or fraudulent devices, and to provide for the destruction of all such devices.

(32) *Intoxicating liquors.* To license, regulate and control the manufacture, sale or disposition of intoxicating liquors; to limit the number of places, and determine the locations where intoxicating liquors may be sold or disposed of, and to prescribe and fix the amount of license tax to be paid by those who engage in the sale or disposition of such liquors within the corporate limits of the city.

The council shall classify dealers in intoxicating liquors in the city into wholesalers, retailers, and saloonkeepers, and prescribe the conditions upon which the business of selling or disposing of intoxicating liquors in the city may be engaged in or carried on under said classifications respectively; provided, that in no event, after the population of the city shall have reached twenty thousand (20,000), shall licenses be issued for engaging in or carrying on the business of saloon keeper in the city to exceed in number the ratio of one license for each one thousand (1,000) inhabitants, to be determined by the council, provided, however, that the limitation herein last contained shall not apply to legitimate hotels in the city having at least one hundred (100) bed rooms.

Under the initiative, as provided in Chapter XV of this Charter, the proposition as to whether or not the manufacture or sale of intoxicating liquors shall be prohibited in the city may be submitted to and determined by the qualified electors of the city at an election duly called and held for that purpose, and if a majority of the votes cast at such election be in favor of prohibition, then within three (3) months thereafter the

manufacture or sale of intoxicating liquors, as the case may be, shall be prohibited in the city except for medicinal and sacramental purposes; and when prohibition shall so obtain in the city the proposition as to whether or not the manufacture or sale of intoxicating liquors shall be permitted in the city may, in like manner, be submitted and determined, and if a majority of the votes cast at said election be in favor of permission, then within one (1) month thereafter the manufacture and sale of such liquors, as the case may be, shall be permitted in the city; provided, however, that elections for either purpose shall not be held in the city oftener than once in two (2) years, nor within two (2) years of each other.

- (33) *Payment of city taxes in installments.* The council shall have the right to provide by ordinance for the payment of city taxes in two (2) installments, at different times of the year, as may be specified in such ordinance.
- (34) *Vagrants, prostitutes, etc.; offensive, indecent, etc., conduct.* To regulate, restrain and punish vagrants, mendicants, lewd persons and prostitutes; to prevent and punish drunkenness, prize fights, and all offensive, immoral, indecent and disorderly conduct and practices in the city.
- (35) *Taxation.* To levy and collect taxes upon all the real and personal property in the city, subject to the limitations elsewhere in this Charter provided.
- (36) *Repayment of excess taxes, costs, etc.* To order the repaying by the treasurer of any taxes, percentages or costs erroneously or illegally collected.

- (37) *Fees and charges for official services.* To fix the fees and charges for all official services not otherwise provided for in this Charter.
- (38) *Urgent necessity fund.* To provide an urgent necessity fund not exceeding five hundred (500) dollars a year, to be expended under the direction of the mayor.
- (39) *Leasing of land and buildings of city.* To provide for the lease of land, buildings or part thereof owned by the city by public auction, sealed bids or negotiation. All such leases shall be approved by ordinance of the city council.
- (40) *Purchase and disposal of property levied upon under execution in city's favor.* To provide for the purchase of property levied upon under execution in favor of the city at an amount bid not exceeding the judgment and costs, to provide for the reconveyance, if any, of such property so purchased, and to make such other rules and regulations in connection with such purchase and property as may be proper or expedient.
- (41) *Disposal of surplus city-owned personal property.* To provide for the sale of personal property unfit or unnecessary for the use of the city by public auction, sealed bids, or negotiation. All such sales of personal property shall be approved by ordinance of the city council.
- (42) *Sale of city-owned realty.* To provide for the sale of such portions of the real property belonging to the city not needed or likely to be needed within a reasonable future time by public auction, sealed bids, or negotiation. All such sales of real property shall be approved by ordinance of the city council.
- (43) *Execution of trusts.* To provide for the execution of all trusts confided to the city.
- (44) *Establishing and changing grades of streets, alleys, etc.* To establish or change the grade of any street, avenue, lane, alley or public place. The grade of any such street, avenue, alley, or such public place, having once been officially established shall not be thereafter changed except upon the payment of all damages occasioned thereby. The council shall by ordinance provide for the setting of grade stakes when and wherever established, upon the application of any person interested therein who may apply therefor, upon the payment of the cost thereof.
- (45) *Municipal improvements generally.* To order the whole or any part of any street, avenue, lane, alley, court or place within the city to be graded, regraded to the official grade, paved or repaved, capped or recapped, surfaced or resurfaced; sewerred or resewerred, and to order sidewalks, manholes, culverts, cesspools, gutters, tunnels, curbing and cross walks to be constructed therein; to provide for the care of shade trees planted therein and to cause shade trees to be planted, set out and cultivated therein; also to order drainage or sanitary sewers or storm sewers to be constructed on or through private property; to provide for the lighting of streets, alleys, public squares and places in said city, and to assess the cost of the installation of lamps, standards or other devices for such lighting, or such part of

such cost as it may deem proper, against the real estate of the owners benefitted thereby, and from time to time as it may deem desirable and proper to replace the same or substitute others therefor; to provide for the grading or regrading, paving or repaving, surfacing or resurfacing, capping or recapping, or the improvement of such parts of any street, avenue, lane, alley, court or place in the city occupied by the tracks of any street or other railroad, and for two (2) feet on either side thereof; and if there be two (2) or more tracks then also the spaces between all said tracks, and to assess the cost thereof against the person, association, firm or corporation owning, operating or maintaining such railroad, and make such cost a lien on such railroad or railroads, and to provide for the enforcement thereof.

Whenever in the judgment of the council, or of the people, the cost and expense of any of the foregoing improvements is to be paid by special assessment on private property, the laws of the State of Arizona in force at the time of the improvement shall govern and control, and all proceedings shall be in conformity therewith; provided, however, that the council may by ordinance at any time prescribe a different and other procedure therefor.

- (46) *Improvements to streets, alleys, etc.; condemnation of property.* To order the opening, extending, widening, straightening or closing of any street, avenue, lane, alley, court or public place within the city, and to condemn any and all property necessary or convenient for that purpose and to assess the cost or such part of the cost thereof as may be

proper to the lots or parts of lots of land benefitted thereby, and provide for the collection of the same. The proceedings for condemnation shall be prescribed by, and conducted pursuant to the directions and authority of the council, the proceedings for the doing of anything authorized by this subdivision shall be that prescribed by the council, not inconsistent with the constitution and general laws of the State of Arizona.

- (47) *Lights and water.* To provide for the lighting of the streets, highways, public places and public buildings, and for supplying the city with water for municipal purposes.
- (48) *Boulevards.* To set apart as a boulevard or boulevards any street or avenue, streets or avenues, over which there is no existing franchise for any railroad, and to regulate or prevent any heavy traffic or teaming thereon; and when any such street or avenue shall have been set aside as a boulevard no franchise for a railroad, interurban railway or street railway shall be granted upon such boulevard, and no railroad track shall ever be laid along the same unless an ordinance to that effect shall have been duly passed by popular vote as provided in Chapters XV and XVI.
- (49) *Streets, avenues, parks, public places, etc.* To locate, open and lay out streets, avenues and alleys in the City of Phoenix, also public squares, parks and playgrounds; accept dedications of streets, avenues, alleys, public places, squares, parks and playgrounds, and vacate such dedication; to vacate and abandon and close up any street, avenue, alley, public square or place, park or playground, as in the judgment of the council should be

vacated and closed, and permit the closing of the same against public use; to make proper conveyance of such streets, avenues, alleys, grounds, parks and places to the persons entitled thereto, or make such disposition of the same as may be proper.

- (50) *Fixing of public utility rates.* When authorized by law to fix and determine by ordinance the rates or compensation to be collected by any person, firm or corporation in the city for the use of water, heat, light, power or telephone service supplied by the city, or to the inhabitants thereof, and to prescribe the quality of the service.
- (51) *Regulation of street railroads.* To regulate street railroads, their tracks and cars; to compel the owners of two (2) or more such street railroads using or desiring to use the same street to use the same tracks and structures appurtenant thereto, laid or installed, or that may be laid or installed, by either on said street, and to equitably divide the cost of construction and the cost of maintenance thereof between them.
- (52) *Responsibility of street railroads to repair streets.* To require every person, association or corporation owning or maintaining a street or other railroad on or along any of the streets, avenues or alleys of the city, to keep in proper repair that space of the same between the rails of the track, and a space two (2) feet in width along and outside of the rails of the track; and where two (2) or more tracks are used or maintained on or along any street, avenue, or alley, to keep in proper repair that entire space of said street, avenue or alley lying and being between the outside rails of the

tracks, as well as a space two (2) feet in width along and outside of the outside rails of the outside tracks.

- (53) *Spurs and side tracks.* To permit the laying down of spurs or side tracks and running cars thereon for the purpose of connecting warehouses, manufactories or other business industries or enterprise with any line of railroads that may be along, or which hereafter enter into, or which now enter the city, subject to the regulations and conditions prescribed from time to time by the council; such tracks to be used for the transportation of freight only, and not to be used as a main line or a part thereof, and also for the purpose of excavating and filling in a street or avenue, or portion of a street or avenue, or the adjoining land, for such limited time as may be necessary for such purpose, and no longer. Such tracks must be laid in accordance with the regulations prescribed by the council, and all permits granted under the provisions hereof shall be revocable at the pleasure of the council.
- (54) *Authority to place telephones, etc., wire underground.* To cause the removal or placing under ground of all telephone, telegraph, electric light or other wires within the city, or within any designated portion thereof, and to regulate or prohibit the placing of poles or other supports and suspending wires along or across the streets, highways, and public places of the city, or any of them.
- (55) *Regulation of water, gas, etc., pipes.* To regulate the size and location of all water pipes, gas pipes and all other pipes and conduits laid or constructed in

- the streets, avenues, alleys and public places, and to require the filing of charts and maps of such pipes and conduits.
- (56) *Elections; registration of electors.* To make all rules and regulations governing elections not inconsistent with this Charter, and to provide from time to time the necessary polling places, ballots, and paraphernalia necessary or convenient for the conducting of such elections, and for the announcing, declaring and recording the results thereof, to provide for the registration of the duly qualified electors of the city from time to time as required by the laws of the State of Arizona, and in the absence of such laws to require by ordinance such registration as the council may deem proper and expedient, and prescribe suitable rules and regulations and appoint proper officers to carry such regulations into effect.
- (57) *Civic art board.* To establish a Civic Art Board and to appoint members thereon, to serve without compensation, with such powers and duties as may be fixed by the council.
- (58) *Establishment of boards generally.* To establish a Park Board, Playground Board, Board of Public Charities, and such other Boards as they deem advisable, and to appoint members thereon to serve without compensation, with such powers and duties as may be fixed by the council; also to establish a Civil Service Board and prescribe its duties.
- (59) *Acquiring public utilities.* To provide a suitable procedure of taking over or otherwise acquiring municipal ownership of public utilities, and to provide the means and manner for paying for the same.
- (60) *Entertainment funds.* To authorize the expenditure out of the funds of the city, not otherwise appropriated sums not to exceed in the aggregate in any one fiscal year, one thousand (1000) dollars, for the purpose of contributing to the entertainment of visitors, in the celebration of holidays or events, in defraying the expense of the entertainment of conventions, conferences, or other representative or delegate assemblies of non-residents of the city held in the city, and for such like purposes as the council may deem proper and advisable.
- (61) *Free employment agency.* To establish and maintain a free employment agency.
- (62) *Abandonment of canals, ditches, etc.* To provide for the vacation, abandonment and non-user of any irrigating canal, lateral or ditch, or any artificial water channel within said city, by condemnation, purchase, or by contract with the owners of any such irrigating canal, lateral or ditch, or artificial water channel, and to assess the cost incident to such vacation, abandonment and non-user, or such part thereof as may be equitable, to the owners of property which may be benefitted thereby, and make such assessment a lien on the property of such owners, and to provide for the enforcement of such lien.
- (63) *Licenses and permits.* The council shall have full power to prescribe by ordinance or resolution the form of all licenses and permits authorized to be issued, the conditions upon which they may be issued, the method of issuing the same, and by what officers they shall be issued, signed and counter-

signed, and may provide by ordinance the method of cancellation or revocation of any such license or permit.

(64) *Powers generally.* To enact appropriate legislation and do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the city or any of the provisions of this Charter; to exercise any and all powers not in conflict with the constitution of the State, with this Charter, or with the ordinances adopted by the people of the city; to do and perform all acts required by the laws of the State; to exercise and carry into effect whenever deemed necessary or proper, any and all additional powers vested in the city or the council by the laws of the State.

(65) *Excise taxes.* The City Council may by ordinance, without an election, assess, levy and collect excise taxes for the purpose of revenue and provide penalties for the non-payment thereof. Such taxes may be computed upon gross income or proceeds; provided, however, that the Council shall not have power to assess, levy or collect an income tax. Income tax shall be defined as a tax levied directly upon income as such and having no other element or feature such as licensing or regulation.

(66) *Floodways and flood plains.* To designate and establish as floodways or flood plains areas of land within the boundaries of the city reasonably required or necessary to improve, extend, maintain or facilitate the control or discharge of waters or rivers and streams and intermittent flowing creeks, washes, arroyos, drains and channels together with surface and flood waters, in order to

prevent the loss of life or injury and damage to property and prevent and prohibit encroachments and obstructions within the floodway or flood plain areas so designated and established by the city.

(67) *Plan for future physical development.* To adopt a comprehensive plan for the future physical development of the city to serve as a guide to all future council action concerning land use regulations and expenditures for capital improvements. The council may by ordinance implement said comprehensive plan by adopting land use and development regulations, including but not limited to official maps, and grading, zoning, subdivision and architectural regulations.

(68) *Revocable permits.* The city manager, with the approval of the council, shall have the right and power to issue revocable temporary permits to any person, association or corporation, for the purpose of temporarily making use of the streets, highways, public rights of way, parks, public property, and other public places in the city; such license or permit to be subject to revocation at any time in the discretion of the council or by the manager with ratification by the council, and shall be subject to such terms and conditions as the council may impose, either by the permit or by ordinance limiting this authority. Such permits or licenses shall not be deemed to be franchises as the term is used in this charter.

(69) *Construction of charter.* In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power

were not mentioned. The charter shall be liberally construed to the end that the City shall have all powers necessary or convenient for the conduct of its municipal affairs, and for the health, safety, and general welfare of its inhabitants, including all powers that cities may assume pursuant to state law and the state constitution.

- (70) *Powers to include those granted under provisions of Title 9, Arizona Revised Statutes.* The City of Phoenix shall have all the rights and powers granted or to be granted to charter cities, and to cities and towns incorporated under the provisions of Title 9, Arizona Revised Statutes.
- (71) *Regulation of religious and charitable solicitations.* To regulate the solicitations of contributions for any religious or charitable purpose, to establish a Solicitation Board with such powers and duties as may be fixed by the Council, and to prohibit solicitations which do not conform to such regulations.
- (72) *Disposal of unclaimed personal property.* To provide for the sale by public auction, destruction or other disposition of unclaimed personal property in the possession of the City.
- (73) *Solid waste.* The Council may by ordinance or resolution provide for the supervision, regulation, collection, transportation and disposition of solid waste. In addition, the Council may, in the same manner, acquire, construct, operate, maintain and improve solid waste management facilities, including the authority to enter into contracts therefor, levy and collect fees and charges, require licenses, accept grants, purchase

and sell recovered resources and to impose criminal penalties for the unlawful disposal of solid waste. Furthermore, the Council may by mutual agreement with other counties, cities or towns provide for the disposal of solid waste provided, the agreement is not in violation of the State Constitution, State law, nor shall it be contrary to the prohibitions of Federal or State antitrust laws.

- (74) *Blighting and deteriorating exterior appearance.* To adopt regulations for the external maintenance of structures and land.
- (75) *Property of historical, cultural, architectural or archaeological significance.* To acquire property of historical, cultural, architectural or archaeological significance including the acquisition of interests in property, to preserve, protect or enhance the historical, cultural, architectural or archaeological aspect of any of the property; and to expend funds to improve, reconstruct, equip and maintain property of historical, cultural, architectural or archaeological significance.

All provisions of this Charter in conflict or inconsistent with this Charter amendment are hereby repealed.

(Election of 7-9-1954; election of 11-9-1971; election of 11-13-1973; election of 11-1-1977; election of 11-3-1981; election of 10-6-1987; election of 10-3-1989; election of 10-1-1991; election of 9-7-1999)

**State law references**—Powers generally, A.R.S. §§ 9-499.01, 9-240, 9-276; penalty for ordinance violations, A.R.S. §§ 9-499.01, 9-240(B)(28).

### **Sec. 3. Mayor to preside; election of vice-chairman.**

The Mayor when present shall preside at all meetings of the Council. The Council shall elect one of its number vice-chairman.

**Sec. 4. Time and place of regular meetings; manner of calling special meetings.**

The Council shall provide for the time and place of holding its regular meetings and the manner in which special meetings may be called.

**Editor's note**—See § 20 of this chapter.

**Sec. 5. Meetings to be public.**

All meetings of the Council whether regular or special, shall be open to the public.

**State law reference**—Open meetings, A.R.S. § 38-431 et seq.

**Sec. 6. Quorum.**

A majority of the members of the Council shall constitute a quorum for the transaction of business.

**Sec. 7. Rules for proceedings.**

The Council shall establish rules for its proceedings.

**Sec. 8. Council to act by resolution, ordinance, franchise or formal recorded action.**

The Council shall act only by resolution, ordinance, franchise, or formal recorded action. (Election of 11-9-1971)

**Sec. 9. Ayes and nays to be recorded.**

For other than unanimous votes the ayes and nays shall be taken upon the vote of all ordinances, resolutions, franchises and formal recorded actions and entered upon the journal of the proceedings of the Council. (Election of 11-9-1971)

**Sec. 10. When majority vote required.**

The affirmative vote of a majority of the Members of the Council shall be necessary to pass any ordinance, franchise, resolution, or formal recorded action. (Election of 11-9-1971)

**Sec. 11. Enacting style.**

The enacting clause of all ordinances passed by the Council shall be in these words: "Be it ordained by the Council of the City of Phoenix as follows:"

**Sec. 12. When actions to be taken by ordinance.**

Actions providing for any specific improvement, for the appropriation or expenditure of any public money, except sums less than five thousand (5,000) dollars, which amount may be adjusted by the Council every four years beginning in 1990 to account for changes in the cost of living†, for the appropriation, acquisition, sale or lease of public property, for the levying of any tax or assessment, for establishing or changing fire limits, or for the imposing of any penalty, shall be taken by ordinance; provided, that such exception be observed as may be called for in cases where the Council takes action in pursuance of a general law of the State.

(Election of 11-5-1985)

†Note—See Phoenix City Code Section 2-4(b) for current amount allowable.

**Sec. 13. Motions to reconsider.**

When an ordinance put upon final passage fails to pass, and a motion is made to reconsider, the vote on such motion shall not be taken within twenty-four (24) hours thereafter.

**Sec. 14. Adoption and transcription of ordinances, resolutions and franchises; effective date; emergency measures; publication.**

All ordinances, resolutions, or franchises shall be signed by the Mayor, or in his absence

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the Vice-Mayor, and attested by the City Clerk, or in his absence, his designee, and transcribed in the proper books therefor, but no ordinance, resolution or franchise other than an emergency measure shall take effect and become operative until thirty (30) days after its passage by the Council. Measures necessary for the immediate preservation of the peace, health or safety of the City shall become effective immediately upon adoption, but no such emergency measure shall become immediately operative unless it shall state in a separate section the reason why it is necessary that it should become immediately operative, and be approved by the affirmative vote of two thirds of the Members of the Council taken by ayes and nays. All ordinances, resolutions and franchises shall be published at least once in the official newspaper of the City within thirty days of their adoption.  
(Election of 11-9-1971)

**Sec. 15. How ordinances to be revised, re-enacted and amended.**

Ordinances shall not be revised, re-enacted or amended by reference to title only, but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this chapter for the adoption of ordinances.

**Sec. 16. How ordinances to be repealed or suspended.**

No ordinance or section thereof shall be repealed or suspended except by ordinance adopted in the manner provided in this chapter.

**Sec. 17. Ordinances and resolutions to be filed, recorded and certified; ordinances and resolutions as evidence.**

All ordinances and resolutions shall be filed and safely kept by the City Clerk and duly

recorded and certified by him in books for that purpose marked "City Ordinances" and "City Resolutions" respectively; and a record copy thereof certified by the City Clerk, or the originals thereof shall be prima facie evidence of the contents of such ordinances or resolutions and of the due passage and publication of the same, and shall be admissible in evidence in any Court in the State of Arizona, or in any proceeding where the contents of such ordinances or resolutions, or any of them, is in question; provided, however, that nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance or resolution in the manner otherwise prescribed by law.

**Sec. 18. Publication of ordinances and resolutions in book form.**

The Council shall, within one (1) year after its organization under this Charter and from time to time thereafter, cause all ordinances and resolutions then in force to be classified under appropriate heads, and, together with, or separately from, the Charter of the City and such provisions of the constitution and laws of the State, as the Council may deem expedient, published in book form.

**Sec. 19. Minimum times Council to meet; determination of meeting day; calling of first meeting.**

The Council shall meet for the transaction of business at least once every month; the day of meeting shall be fixed and determined at the first meeting of the Council; said first meeting shall be called by the Mayor-elect as soon as he and the other Councilmen shall have been duly elected and qualified.

**Sec. 20. How special meetings called.**

Special meetings may be called by the Mayor, or by three (3) Members of the Council.  
Editor's note—See § 4 of this chapter.

**Sec. 21. Minute books open to public.**

Any citizen of this City may have access to the minutes upon application to the City Clerk.

**Sec. 22. How petitions to be presented and acted upon.**

Any citizen of this City may appear before the Council at any regular meeting and present a written petition; such petition shall be acted upon by the Council in the regular course of business, within fifteen (15) days.

**Sec. 23. When Member excused from voting; failure to vote.**

No Member shall be excused from voting except upon matters involving the consideration of his own official conduct. In all other cases a failure to vote shall be entered on the minutes as an affirmative vote.

**Sec. 24. Manner of exercising, etc., powers, duties, etc., to be prescribed by ordinance.**

Wherever, by any provision of this Charter, it is prescribed that any power, duty or procedure shall or may be exercised, performed or adopted in the manner established by any law of the State of Arizona, such power, duty or procedure may, nevertheless, be exercised, performed or adopted, or caused to be exercised, performed or adopted, in the same or in a different manner, by an ordinance of the Council, irrespective of such State law, and in case there be no procedure established by State law therefor, then the Council shall by ordinance prescribe one.

**CHAPTER V. THE MAYOR**

**Sec. 1. To be chief official of City; duty to enforce ordinances.**

The Mayor shall be the chief executive officer of the City, and ex-officio chairman of the Council, and shall see that the ordinances thereof are enforced.

**Sec. 2. Annual and periodic reports to Council.**

The Mayor shall annually and from time to time give the Council information relative to the affairs of the City, and recommend for its consideration such matters as he may deem expedient. He may annually submit to the Council a program budget.  
(Election of 11-4-1975)

**Sec. 3. Legal recognition as official head of City.**

The Mayor shall be recognized as the official head of the City by the courts for the purpose of service of civil process upon the City and the instituting of any action or proceeding at law or equity for and in behalf of the City, and appearing in any manner before the courts on behalf of the City; he shall be recognized by the governor and other State officials as the chief and official head of the City.

**Sec. 4. Authority during emergency.**

A. The Mayor shall govern the City during times of great emergency and shall make proclamations necessary rising out of that emergency. Any violation of proclamations made pursuant to this authority shall be a misdemeanor.

B. During the absence or disability of the Mayor or when the Office of Mayor is vacant, the Vice-Mayor shall act as Mayor under the provisions of Subsection A herein above.

C. During the absence or disability of both the Mayor and Vice-Mayor or when the Offices of Mayor and Vice-Mayor are both vacant, the remaining Council Member who has most recently served in the Office of Vice-Mayor shall act as Mayor under the provisions of Subsection A herein above.

(Election of 11-9-1971; Election of 9-13-2005, Prop. 2, eff. 10-11-2005)



**Sec. 5. Right to appoint personal secretary.**

The mayor shall have the right to appoint his personal secretary and such personal staff as may be authorized by ordinance, who shall not be subject to the provisions of the Civil Service of the City of Phoenix, being Chapter 2, Article VI, of the Code of the City of Phoenix, 1969. (Election of 11-9-1971)

**CHAPTER VI. [RESERVED]\***

**CHAPTER VII. THE CITY AUDITOR**

**Sec. 1. Powers and duties generally.**

The City Auditor shall prescribe and require, except as they may be by law prescribed and required, the use of plain and uniform systems of keeping books of accounts by all City officers who are charged with the receipt or disbursement of any of the funds of the City or who may be authorized to purchase materials and supplies or employ labor for it. He shall prescribe the form of vouchers or other evidences of the receipt of money from the City or for the establishment of demands against the City. He shall at all times have access to and may inspect and take copies of all books on which entries are made, or are required to be made, relating to the receipt or expenditure of money on account of the City, and to all vouchers, accounts, bills, warrants, drafts, contracts, or other papers relating thereto.

He shall have power to administer oaths for the purpose of ascertaining the facts relating to any charge or claim against the City, made or claimed by any person, partnership, association or corporation whatsoever. He shall inquire into and inform himself as to the legality of all

\*Editor's note—Chapter VI was repealed at the election of November 9, 1971.

claims paid out of the City Treasury, or for which warrants thereon have been drawn, as well as the reasonableness of the prices charged or claimed for material, supplies or labor, and the facts as to the delivery or rendition thereof to or for the use of the City.

**Sec. 2. Regular reports to the Council; special reports.**

He shall, at the first meeting of the council in each month, make a written report to the council of all expenditures made or incurred by the city or on its account during the next preceding month, showing the same in detail; and as well the receipts by the city in detail on all accounts, and show at the time the financial condition of the city.

He shall also make written or verbal reports to the council, whenever required by it, of any particular matters relating to the business of the city involving the receipt or expenditure of money or incurring expense therein.

**Sec. 3. Additional duties.**

He shall perform such other duties as may be prescribed by the council not inconsistent with the provisions of this Charter.

**Sec. 4. Assistants to Auditor.**

The auditor may, with the consent and approval of the council, appoint such assistants as in the opinion of the council may be required, their compensation to be fixed by the council.

**Sec. 5. Annual audit.**

There shall be an annual audit of the fiscal affairs of the City of Phoenix by one or more certified public accountants, who shall not be employees of the city.

## CHAPTER VIII. CITY COURT\*

### Sec. 1. City Court as separate and independent branch of City government; when to be open; transactions permitted on non-judicial days.

There shall be a city court system as a separate and independent branch of the government of the City of Phoenix, which court shall always be open except on non-judicial days, and on such non-judicial days it may transact such business within its jurisdiction as is authorized by general law to be transacted by courts of justice of the peace relative to business within their jurisdiction.

(Election of 11-9-1971)

### Sec. 2. Jurisdiction.

The city court shall, within the territorial limits of the City of Phoenix, have and exercise jurisdiction as follows:

- (a) It shall have and exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of any ordinance of the City, and of every action of a civil nature for the enforcement of a penalty or the recovery of a penalty or forfeiture imposed by any ordinance of the City for violation thereof, or for neglect to perform any duty by any ordinance imposed, and of every action for the collection of any license, tax or penalty due from any person to the City and required to be paid or which is due and collectible under the ordinance of the City.
- (b) The City Court shall have concurrent jurisdiction with the Justices of the Peace, in the precincts of the City, over

all violations of the laws of the State committed within the corporate limits of the City; said concurrent jurisdiction shall be subject to the rules of criminal procedure applicable to trials before Justices of the Peace.

- (c) The City Court shall be authorized to adopt Local Rules of Practice as necessary for the proper carrying out of the jurisdiction vested in the City Court.

(Election of 11-9-1971; election of 11-1-1977)

### Sec. 3. Appointment, term and removal of judges of the City Court; jurisdiction of City Manager over financial, personnel and administrative functions of the court.

(a) The judges of the city court shall be appointed by the council of the City of Phoenix. The three judges with the longest credited service shall be appointed for a term of four years and remaining judges for terms of two years. All subsequent appointments shall be for four year terms. A vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the term.

(b) Judges of the city court may be removed by the city council for cause on motion adopted by the affirmative vote of two-thirds of the members of the council.

(c) The compensation of judges of the city court shall be fixed by the city council and shall not be reduced during the term of office of an incumbent other than the proportion by which salaries of all city employees may be reduced generally.

(d) All financial, personnel and administrative functions of the city court system shall be under the jurisdiction of the city manager.

(Election of 11-9-1971)

\*State law reference—Municipal courts, A.R.S. § 22-401 et seq.

**Sec. 4. Appointment of Chief Presiding Judge of the City Court.**

The Council shall annually appoint one judge to serve as Chief Presiding Judge of the City Court for a term of one year. The Chief Presiding Judge shall receive such additional compensation as shall be approved by the Council.

(Election of 11-1-1977)

**Sec. 5. Appointment of judges pro tempore.**

The chief presiding judge may, with the approval of the city manager, appoint such judges pro tempore as are required by the city court.

(Election of 11-9-1971)

**Sec. 6. Qualifications of judges of the City Court.**

All judges of the city court, regular or pro tempore, shall be attorneys at law, admitted to the practice of law by the Supreme Court of the State of Arizona and have at least five years practice of law or equivalent legal experience. Judges appointed for a term of years shall be prohibited from the private practice of law and from engaging in any political activity.

(Election of 11-9-1971)

**Sec. 7. Duty of Council to provide for court; disposition of fines, penalties and fees collected.**

The council shall provide each judge of the city court with a proper courtroom, and with all necessary stationery, furniture and paraphernalia. The council shall also provide proper and necessary clerical force for the keeping and maintaining of a proper record of the transactions of the court, and the acts, judgments and orders of said judge. All fines, penalties, and fees collected by the court shall be paid to the city treasurer as provided by ordinance.

(Election of 11-9-1971)

**Sec. 8. Power of judge of the City Court to issue writs and processes and to hear cases; nature of writs and processes; records to be kept; duty of police to execute, serve and make proper return of writs and processes.**

For the proper carrying out of the jurisdiction vested in said city court, the judge thereof shall be entitled and authorized to issue and cause to be served any and all writs and processes, and he shall have full authority to hear and determine all matters properly coming before him and coming within his jurisdiction herein specified. The writs and processes of the city courts shall be similar to those used by justices of the peace in cases of a similar nature. Proper record shall be kept of the issuance of writs and processes and returns and all other actions taken relative thereto, and the actions of the court thereon. The police of the City of Phoenix are hereby authorized and directed to execute and serve any and all writs and processes issued out of said city court by the judges thereof, and the proper return shall be made by such officer to the same extent required of constables and sheriffs in the service and execution of similar papers.

(Election of 11-9-1971)

**Sec. 9. Hearing officers.**

The Chief Presiding Judge may appoint court hearing officers who shall have the powers to hear and adjudicate civil offenses. The qualifications and compensation of court hearing officers shall be as provided for by ordinance.

(Election of 11-1-1983)

**CHAPTER IX. BONDS AND OATHS OF OFFICE**

**Sec. 1. When bond required.**

Before entering upon the performance of the duties of his office, any officer of whom a bond is required by the Charter or by ordinance shall make and execute and file his official bond.

**Sec. 2. Those required to be bonded and amount of each bond.**

The official bonds of the following named officers shall be in amounts as follows: The Manager, \$20,000; the Auditor, \$5,000; the City Clerk, \$5,000; the City Assessor, \$5,000; the City Treasurer, \$50,000; the City Collector, \$10,000.

Provided, however, that the council may prescribe by ordinance bonds of the city treasurer and the city collector in greater amounts than herein prescribed for those officers.

**Sec. 3. Provision for bonding other officers and their deputies.**

The council may by ordinance require official bonds of other officers and their deputies and fix the amount thereof.

**Sec. 4. Conditions of bonds.**

Official bonds required by this Charter, or by any ordinance of the city of Phoenix, shall be conditioned that the principal will well and truly, honestly and faithfully, perform the duties of his office, and will at all times account to the city or the proper officers thereof, for all moneys and property received or taken by him on behalf of the city, and at the expiration of his office, or termination thereof, he will promptly surrender to his successor in office, or to such officer as may be designated by the council, or his superior officer, all the books, records, papers, documents, property and paraphernalia belonging to or used in said office, or in connection therewith, together with a complete inventory and statement of such property so to be turned over by him.

**Sec. 5. Surety required.**

Every official bond shall be executed with two (2) or more good and sufficient sureties

who shall qualify in form as is required by law for the qualifications of sureties upon bonds of county officers. Instead of two (2) or more sureties as above prescribed, such bonds may be executed with a properly qualified surety company as surety; in such cases the premium to be charged therefor shall be paid by the city.

**Sec. 6. Where bonds to be filed; approval to be attested by Mayor.**

The official bonds shall, after approval by the council be filed with the city clerk and safely kept by him; except the bond of the city clerk which shall be filed with and kept by the city treasurer. The approval of bonds must be endorsed thereon or appended thereto and attested by the mayor.

**Sec. 7. Oath.**

Before entering upon the duties of his office, each officer of the city, whether elected or appointed under the provisions of this Charter, or under any ordinance of the city, shall take and subscribe an oath of office, in the form of the official oath required by the constitution. The oath so taken and subscribed, if by an official required to give a bond, shall be endorsed upon or attached to the bond; if by an official not required to give a bond, such oaths shall be filed with and kept by the city clerk.

**CHAPTER X. [RESERVED]\***

**CHAPTER XI. CONFLICT OF INTEREST; DISCRIMINATION**

**Sec. 1. Provisions of State law to apply.**

The provisions of the state law governing conflict of interest of officers and employees shall apply.

(Election of 11-9-1971)

**State law reference**—Conflicts of interest, A.R.S. § 38-501 et seq.

**Sec. 2. Discrimination.**

No person shall be appointed to, removed from or in any way favored or discriminated against with respect to any City position because of race, color, ancestry, national origin, sex, political or religious opinions or affiliations.

(Election of 11-9-1971)

**State law reference**—Employment discrimination, A.R.S. § 41-1451 et seq.

**CHAPTER XII. NOMINATION AND ELECTION OF OFFICERS†**

**Sec. 1. Mode of nomination of elective officers.**

(a) The mode of nomination of elective officers of the City to be voted for at any municipal election shall be as follows, and not otherwise:

(b) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form established by ordinance.

\***Editor's note**—Chapter X was repealed by the amendment of November 16, 1948.

†**State law reference**—Elections generally, A.R.S. § 16-101 et seq.

(c) The petition of nomination shall consist of a printed or written statement or certificate, substantially complying with the form thereof established by ordinance.

(d) The nomination petition for Mayor shall be signed by qualified electors in the City of Phoenix from the City at large. The nomination petition for any Member of the eight Council seats shall only be signed by qualified electors who reside within the district that said Councilman seeks to be nominated from.

(Election of 11-9-1971; election of 12-1-1982)

**Editor's note**—The initiative petition indicates amendment of ch. XIII, § 1. However, the body of the text shows that ch. XII, § 1, is to be amended by adding subsection D. Placement of the additional subsection has been made in ch. XII, § 1.

**Sec. 2. Number of signatures required on petition; time when petition to be filed; duty of City Clerk to endorse petitions.**

A. Nomination petitions for the office of Mayor shall be in the form prescribed by law and shall contain the signatures of not less than 1,500 qualified electors of the City.

B. Nomination petitions for the office of Council Member shall be in the form prescribed by law and shall contain the signatures of not less than 200 qualified electors of the City residing within the district that the candidate seeks to be nominated from.

C. Nomination petitions for City elective offices may be presented to the City Clerk not earlier than one hundred twenty (120) days nor later than ninety (90) days before the date set for the Mayor and Council Election. The City Clerk shall endorse on each petition or petitions the date when the same was received by him. Signatures on nominating petitions dated more

than one hundred eighty (180) days prior to the date set for the Mayor and Council Election shall not be valid.

(Election of 11-5-1985; election of 9-11-2007, § 1)

**Sec. 3. Filing of nominating petition; acceptance by candidate nominated; determination by City Clerk of sufficiency; supplemental petitions; procedure to be followed when petitions found sufficient; procedure to be followed when petition found insufficient.**

All separate petitions comprising a nominating petition for a candidate shall be assembled and filed with the City Clerk as one instrument. No nominating petition shall be accepted by the City Clerk unless accompanied by a signed acceptance of the nomination by the candidate therein nominated. The City Clerk upon filing with him of a nominating petition shall by specific count determine whether or not such petition is signed by the requisite number of qualified electors. Within ten (10) days after filing of each such petition with the City Clerk, he shall attach his certificate thereto showing the result of his examination. If, by the City Clerk's certificate, it shall appear that the petition has not been signed by the requisite number of qualified electors, it may be supplemented by filing a supplemental petition at any time prior to ninety (90) days before the Mayor and Council Election. The City Clerk shall, within ten (10) days after the filing of each such supplemental petition, make like examination of the supplemental petition, and shall certify as to the result of the examination, but no further supplement shall be allowed; and provided, further, that no supplement to such petition shall be allowed after the expiration of the time for filing nominating petitions as set forth in Section 2 of this Chapter XII. If the

petition, either as originally filed or as supplemented, shall be found to be sufficiently signed as herein provided, the same shall be filed by the City Clerk and when filed shall not be withdrawn or supplemented. If the petition, either as originally filed or as supplemented, is insufficient, then the City Clerk shall make and retain a photocopy of the petition and shall then return the petition to the person who filed it or to the candidate named therein.

(Election of 11-5-1985; election of 9-11-2007, § 1)

**Sec. 4. Withdrawal of names from nomination.**

Any person whose name has been presented under the foregoing sections, or in the manner provided for nomination hereinafter, may, not later than seventy-five (75) days before the day of election, cause his or her name to be withdrawn from nomination by filing with the City Clerk a request therefor in writing, and no name so withdrawn shall be printed on the ballot. If upon such withdrawal, or by the death or other disqualification of any person for the nomination of whom a petition has been filed, no candidate remains on the ballot, then other nominations may be made by filing petitions therefor not later than sixty (60) days prior to such election, but no supplement to any such petition shall be allowed.

(Election of 11-5-1985; election of 9-11-2007, § 1)

**Sec. 5. Petitions not to be withdrawn or changed after filing.**

When a petition of nomination shall have been filed by the City Clerk it shall not be withdrawn or added to and no signatures shall be revoked thereafter.

**Sec. 6. City Clerk to preserve petitions.**

The City Clerk shall preserve in his office all sufficient petitions of nomination and photocopies of all insufficient petitions of nomination and all certificates thereto filed under this Chapter [Charter] until the expiration of the term of office for which the petition was filed. (Election of 9-11-2007, § 1)

**Sec. 7. List of candidates.**

Not later than ten days after the deadline for filing petitions, the City Clerk shall enter the names of the candidates for whom petitions have been filed as hereinafter provided, except candidates who have withdrawn or died or are otherwise disqualified, in a list with the offices to be filled, and shall, not later than twenty-five days before the election certify such list as being the list of candidates as required by the Charter of the City of Phoenix; and the Council shall cause said certified list of names and the office to be filled, designating whether for a full term or for an unexpired term, to be published in the proclamation calling the election for the period and in the manner now or as may hereafter be provided by law or by ordinance of the City for the publishing of such election proclamation. (Election of 11-9-1971)

**Sec. 8. Form of ballots.**

The City Clerk shall cause the ballots to be printed, bound and numbered as hereinafter provided for the printing, binding and numbering of ballots to be used in municipal elections or as the same may hereafter be provided by ordinance; said ballot shall contain the list of names and the respective offices, in compliance with the form thereof established by ordinance. (Election of 11-5-1985)

**Sec. 9. General requirements for ballots; arrangement of names not to reveal source of candidacy or support of candidates.**

The ballot shall in all respects comply with the provisions of law respecting ballots to be used at general, county or state elections, so far as applicable. A space may be provided at the top of the ballot for charter amendments or other questions to be voted upon at the municipal elections, as provided for under this Charter. The names of the candidates for each office shall be arranged as provided by law and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate. (Election of 11-9-1971)

**Sec. 10. Placing names of candidates on ballots.**

The name of each candidate who has been duly and regularly nominated, except candidates who have withdrawn or died or are otherwise disqualified, shall be placed upon a ballot. (Election of 11-9-1971)

**Sec. 11. Provisions for write-in votes.**

An appropriate space shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote, provided that if no write-in candidate for an office has been certified within the time provided by law, no space for a write-in candidate shall be required. (Election of 9-13-2005, Prop. 3, eff. 10-11-2005)

**Sec. 12. Sample ballots.**

The provisions of law, as the same exist or as the same may hereafter be amended or changed,

relating to the printing and distribution of sample ballots in connection with the Mayor and Council Election, shall apply to all Runoff and special municipal elections.

(Election of 11-5-1985)

**Sec. 13. Recordation of canvass and result; preparation of ballots for runoff election.**

After the holding of such Mayor and Council Election it shall be the duty of the City Clerk, after the result thereof shall have been duly declared, to cause the canvass and result of such election to be duly noted in his records, and thereafter and within the time provided by law to cause the necessary ballots to be printed and distributed for use at the Runoff Election hereinafter referred to. The names of only such candidates who were not elected at such Mayor and Council Election, as hereinafter provided, shall, if proper and necessary, be printed on the ballots to be used in Runoff election.

(Election of 11-5-1985)

**Sec. 14. [Reserved.]**

**Editor's note**—Section 14 was repealed at the election of November 5, 1985.

**Sec. 15. Majority vote to elect.**

A. Every voter shall be entitled to vote for one candidate for office of Mayor and to vote for one candidate for the office of City Council Member from that voter's Council District.

B. Any candidate who at said Mayor and Council Election shall receive a majority of all the votes cast for that office at such election shall be elected to such office.

(Election of 11-5-1985)

**Sec. 16. Runoff election.**

A. If under the provisions of Section 15 the office of Mayor remains unfilled after the Mayor and Council Election, a Runoff Election

shall be held later to fill the office. In the Runoff Election there shall be printed on the ballot the names of two candidates for the office. The names shall be those of the two unelected candidates polling the greatest numbers of votes in the Mayor and Council Election. The candidate who shall receive the highest number of votes at such Runoff Election shall be declared elected to the office of Mayor.

B. If under the provisions of Section 15 the office of Council Member in any Council District remains unfilled after the Mayor and Council Election, a Runoff Election shall be held in each such Council District later to fill such offices. In the Runoff Election there shall be printed on the ballot in each district in which a Council Office remains unfilled the names of two candidates for the office; the names shall be those of the two unelected candidates polling the greatest numbers of votes in the Mayor and Council Election. In the Runoff Election, the candidate polling the greatest number of votes shall be declared elected.

C. All ties in either election shall be decided by lot in the presence of the candidates concerned and under the direction of the election authorities.

(Election of 11-5-1985)

**Sec. 17. [Reserved.]**

**Editor's note**—Section 17 was repealed at the election of November 13, 1973.

**Sec. 18. Gender of words.**

Words used in the masculine gender in this Charter include the feminine.

**CHAPTER XIII. GENERAL  
PROVISIONS GOVERNING  
ELECTIONS\***

**Sec. 1. Conduct of elections.**

The conduct of all City elections shall be under the control of the Council and the Council may, by ordinance, subject to the provisions of this Charter, provide for the holding of all municipal elections. The provisions of State Law governing elections, where not in conflict with the provisions of this Charter, in force at the time of any City election, shall govern such City election in matters for which no provision is made in this Charter or by ordinance and the Council shall exercise the powers and perform the duties conferred on or imposed by such laws; provided that where this Charter makes provisions relating to any matters contained in such State Laws, said Charter provision shall govern. The register of qualified electors of the City of Phoenix shall be compiled from the general county register, Maricopa County, Arizona, and the cancellations of registrations, Maricopa County, Arizona. The form of ballot shall be substantially as that prescribed by ordinance.

The Council shall be the canvassing board, which shall meet no earlier than the seventh day and no later than the fifteenth day after the election and canvass the votes and announce and declare the results of such election.  
(Election of 11-9-1971; election of 9-11-2007, § 2)

**Sec. 2. Council to be responsible for holding elections.**

Prior to the holding of any City election provided for herein, the Council shall designate

**\*State law reference**—Elections, A.R.S. § 16-101 et seq.

the necessary polling places, appoint the necessary judges and inspectors of election, and provide for the making up, printing and distribution of the ballots, and provide the necessary booths and paraphernalia for the holding of such elections.

(Election of 11-9-1971)

**Sec. 3. Number of polling places; hours polling places to be kept open.**

There shall be a sufficient number of polling places designated in the City of Phoenix for the casting of votes, and such polling places shall be kept open on the day of election from six (6) o'clock a.m., to seven (7) o'clock p.m.: provided, however, that the Council may by ordinance extend the hours during which polling places shall be kept open.

(Election of 11-9-1971)

**Sec. 4. Qualifications of electors.**

The qualification of electors shall be as required by the constitution and laws of the state for state and county electors.

**State law reference**—Qualifications for registration, A.R.S. § 16-101.

**Sec. 5. State law to control violations and campaign contributions and expenditures.**

The laws of the state relative to violations of the election laws and the publicity of campaign contributions and expenditures of committees and candidates at primary, special and general elections, shall apply to City elections under this Charter and shall be enforced as provided in said state laws.

**State law references**—Election violations, A.R.S. § 16-1001 et seq.; campaign contributions, A.R.S. § 16-901 et seq.

**Sec. 6. Elections may be held at same time as other elections.**

Any election except Mayor and Council Election for Mayor or Council provided for herein may be held on the same date as any state, county or district election held under state law.

(Election of 11-5-1985)

**Sec. 7. Voting systems.**

The Council may provide for voting machines or an electronic voting system or both to be used in any of the elections provided for in this Charter, in which event the use of such machines or systems shall conform to the provisions of the general laws of the State of Arizona governing the use of voting machines or electronic voting systems where not in conflict with the provisions of this Charter or ordinances of the City.

(Election of 11-9-1971)

**State law reference**—Voting equipment, A.R.S. §§ 16-421 et seq., 16-441 et seq.

**Sec. 8. Limitation on number of special elections.**

Except where a special election is required by the provisions of this Charter or is called for the purpose of seeking approval of the qualified electors to incur public debt, there shall not be held more than one special election in any period of six months.

(Election of 2-7-1984)

**Sec. 9. Special elections to be conducted in same manner as general election.**

All special elections herein provided for shall be conducted in the same manner and under the same provisions as are provided for

the holding of general elections, including the qualifications of electors and the nomination of candidates.

(Election of 11-9-1971)

**Sec. 10. Citywide, general elections.**

Any Citywide election shall, for all purposes, be deemed to be a general election.

(Election of 11-6-2001)

**CHAPTER XIV. SPECIAL ELECTIONS**

**Sec. 1. To be conducted in same manner as general elections.**

All special elections herein provided for shall be conducted in the same manner and under the same provisions as are provided for the holding of general elections, including the qualifications of electors and the nomination of candidates.

**CHAPTER XV. THE INITIATIVE\***

**Sec. 1. Power of electors.**

The qualified electors of this City shall have the power through the initiative to enact legislation to carry out or enforce the general powers of the City or of the City Council.

(Election of 11-9-1971)

**Sec. 2. Adoption of State law.**

The applicable requirements, limitations and authorities of Article IV, Part 1, Section 1, of the Constitution of Arizona, as now constituted and hereafter amended, and the applicable provisions of Title 19, Chapter 1, Articles 1, 2, 3 and 4, Arizona Revised Statutes, as now con-

**\*Editor's note**—The section catchlines in ch. XV were added by the editor.

**State law reference**—Initiative and referendum, A.R.S. § 19-101 et seq.

stituted and hereafter amended, relating to the powers of initiative are hereby adopted as provisions of this Charter governing the manner of exercising the initiative powers herein reserved.

(Election of 11-9-1971; election of 9-11-2007, § 3)

**Sec. 3. Additional provisions.**

In addition to the provisions of Section 2 hereof, the following provisions are adopted:

- A. Such number of the qualified electors as shall equal fifteen per centum of the total number of votes cast at the last preceding general City election at which a Mayor was elected may propose measures on City matters.
- B. An initiative petition shall be filed with the City Clerk within two years from the date on which the official number is assigned. If a petition is not filed prior to the end of this period, the petition shall be deemed expired and shall have no further effect. Signatures obtained more than six months prior to the date of filing shall be invalid and certified so by the Clerk.
- C. The City Clerk shall determine the validity of all initiative petitions, the signatures thereon and the qualifications of the signators regardless of the apparent sufficiency or insufficiency thereof.
- D. If the initiative petition accompanying the proposed ordinance is signed by qualified electors as required by subsection A of this Section, and contains a request that said ordinance be forthwith submitted to the vote of the people at the special election, then the Council shall either:
  - (1) Pass said ordinance without alteration within twenty (20) days after

the attachment of the City Clerk's certificate to the sufficiency of the accompanying petition (subject to a referendary vote, under the provisions of Chapter XVI of this Charter); or

- (2) Within twenty-five (25) days after the City Clerk shall have attached to the petition accompanying such ordinance his certificate of sufficiency, the Council shall either proceed to call a special election at which said ordinance without alteration shall be submitted to a vote of the people, or if a regular City election is to be held within six months after the City Clerk shall have attached his certificate of sufficiency to the petition the Council may elect to place said ordinance on the ballot at that regular election. The date of any such special election shall be on the next consolidated election date that is no earlier than one hundred twenty (120) days after the call for such election by the Council.

E. Amendments to this Charter proposed by initiative petitions shall not be adopted by the City Council but shall be submitted to a vote of the people either at a special election or at a regular City election as provided in subsection D(2) of this Section.

F. The City Council, by the affirmative vote of two-thirds of its Members, may adopt ordinances implementing and clarifying the manner of exercising the initiative not in conflict with this Charter, the Arizona Constitution, and the Laws of Arizona.

(Election of 11-9-1971; election of 9-11-2007, § 3, eff. 9-27-2007)

## CHAPTER XVI. THE REFERENDUM\*

### Sec. 1. Power of electors.

The qualified electors of this City shall have the power through the referendum to refer to the people a protest, demand for reconsideration, or repeal of legislation to carry out or enforce the general powers of the City or of the City Council.

(Election of 11-9-1971)

### Sec. 2. Adoption of State law.

The applicable requirements, limitations and authorities of Article IV, Part 1, Section 1, of the Constitution of Arizona as now constituted and hereafter amended and the applicable provisions of Title 19, Chapter 1, Articles 1, 2, 3 and 4, Arizona Revised Statutes, as now constituted and hereafter amended, relating to the powers of referendum, are hereby adopted as provisions of this Charter governing the manner of exercising the referendum powers herein reserved.

Any ordinance or measure that the Council or the qualified electors of the City shall have the authority to enact, the Council may of its own motion submit to the electors for adoption or rejection at a general or special municipal election, in the same manner and with the same force and effect as is provided in this chapter [Charter] for ordinances or measures submitted on petition.

### Sec. 3. Additional provisions.

In addition to the provisions of Section 2 hereof, the following provisions are adopted:

- A. No ordinance passed by the Council shall go into effect before thirty days

\*Editor's note—The section catchlines in ch. XVI were added by the editor.

State law reference—Initiative and referendum, A.R.S. § 19-101 et seq.

from the time of its final passage, except emergency measures adopted pursuant to the Arizona Constitution and this Charter. If during the said thirty days, a petition by qualified electors of the City, equal in number to ten per centum of the total number of votes cast at the last preceding general City election at which a Mayor was elected protesting the passage of such ordinance, or any item, section, or part thereof, is presented to the Council, such ordinance or item, section, or part thereof protested, shall be suspended from going into operation. It shall then be the duty of the Council to reconsider such ordinance. If the ordinance or an item, section or part thereof protested be not repealed, the Council shall submit the ordinance or item, section or part thereof protested to the electors of the City either at the next general election or at a special election to be called for that purpose. Such protested ordinance or protested item, section or part thereof shall not go into effect or become operative unless a majority of the qualified electors voting on the same ordinance, item, section or part vote in favor thereof.

- B. The City Council, by the affirmative vote of two-thirds of its Members, may adopt ordinances implementing and clarifying the manner of exercising the referendum not in conflict with this chapter, the Arizona Constitution, and the Laws of Arizona.

(Election of 11-9-1971)

## CHAPTER XVII. THE RECALL\*

### Sec. 1. Power of electors.

Every public officer of the City holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the City.

(Election of 11-9-1971)

### Sec. 2. Adoption of State Law.

The applicable requirements, limitations and authorities of Article VIII, Part 1, Sections 1, 2, 3, 4, 5 and 6 of the Constitution of Arizona as now constituted and hereafter amended and the applicable provisions of Title 19, Article 1, Arizona Revised Statutes, as now constituted and hereafter amended, relating to recall are hereby adopted as provisions of this Charter governing the manner of exercising the recall powers herein reserved.

(Election of 11-9-1971)

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\***Editor's note**—The section catchlines in ch. XVII were added by the editor.

**State law reference**—Recall, A.R.S. § 19-201 et seq.



**Sec. 3. Additional provisions.**

In addition to the provisions of Section 2 hereof the following provisions are adopted:

- A. Such number of the qualified electors as shall equal twenty-five per centum of the total number of votes cast at the last preceding general city election for all of the candidates for the office held by an elected city officer may petition for his recall.
- B. The city clerk shall determine the validity of all recall petitions, the signatures thereon and the qualifications of the signators regardless of the apparent sufficiency or insufficiency thereof, and if certified insufficient shall return all original petitions to the person or persons filing the same.
- C. The city council, by the affirmative vote of two-thirds of its members, may adopt ordinances implementing and clarifying the manner of exercising the recall not in conflict with this charter, the Arizona Constitution, and the laws of Arizona.

(Election of 11-9-1971)

**CHAPTER XVIII. FINANCE AND TAXATION\***

**Sec. 1. Fiscal year.**

The fiscal year of the city shall commence upon the first day of July of each year.

**Sec. 2. Council to provide for tax system; use of County tax services.**

The council shall by ordinance provide a system for the assessment, levy and collection of all city taxes, not inconsistent with the provisions of this Charter.

\*State law reference—Taxation, A.R.S. § 42-1001 et seq.

The council shall have power to avail itself by ordinance of any law of the State of Arizona, now or hereafter in force and comply with the requirements thereof whereby assessments may be made by the assessor of the county in which the City of Phoenix is situated, and taxes collected by the tax collector of said county for and in behalf of the said City of Phoenix. Other provisions of this Charter concerning the assessment, levy and collection of taxes shall be subject to the provisions of any such ordinance while the same shall be in force.

**Sec. 3. City Manager to prepare annual estimate.**

On or before the first Monday in May in each year, or on such date in each year as shall be fixed by the council, the manager of the city shall prepare a careful estimate in writing of the amounts of money, specifying in detail the objects thereof, required for the business and conduct of the affairs of the city during the next ensuing fiscal year.

**Sec. 4. Submission of estimates to Council; scope of Manager's estimate.**

On or before the first Monday in June of each year, or on such date in each year as shall be fixed by the council, the manager shall submit to the council the estimates of each department and his own personal report and recommendation and estimate as to the probable expenditures of the city for the next ensuing fiscal year, stating the amount in detail required to meet all expenditures necessary for city purposes, including interest and sinking funds for outstanding indebtedness, if any therein, also an estimate of the amount of income expected from all sources in each department, and the probable amount required to be raised by taxation to cover such expenditures, interest and sinking funds.

**Sec. 5. Council to prepare budget; scope of budget.**

The council shall meet annually prior to fixing the tax levy and make a budget of the estimated amounts required to pay the expenses of conducting the business of the city government for the ensuing fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office and subdivision of the city government, as the council shall deem advisable.

**Sec. 6. Preparation of estimates; budget; Council action.**

*A. Estimates and budget.* On or before the first Tuesday in June of each year, or on such date in each year as shall be fixed by the council, the manager of the city shall submit to the council a proposed budget for the ensuing fiscal year. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. The budget shall be so arranged as to show comparative figures of estimated income and expenditures for the current year; and estimated income, including the estimated property tax levy and the proposed expenditures for the coming fiscal year. Actual revenue and expenditure figures for the preceding fiscal year also may be included at the option of the manager.

The budget shall show proposed expenditures for operating requirements and debt service during the ensuing fiscal year in such detail as the city manager deems appropriate, proposed capital expenditures during the ensuing fiscal year; and anticipated fund balances at the beginning and end of the ensuing fiscal year.

The total of proposed expenditures shall not exceed the total of estimated income and fund balances.

**B. Council action on budget.**

- (1) *Notice and hearing.* The city council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and a notice which states the time and places where copies of the budget are available for inspection by the public and the time and place, not less than two weeks after publication, for a public hearing on the budget.
- (2) *Amendment before adoption.* After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required or limited by law or for outstanding bonded indebtedness, provided that no amendments to the budget shall increase appropriations to an amount greater than the total of estimated financial resources available to finance such appropriations.
- (3) *Adoption.* The council shall adopt the budget on or before the last day of June of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for operating requirements and debt service for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month to month basis, with all appropriations prorated accordingly, until such time as the council adopts the budget for the ensuing fiscal year. Adoption of the budget shall constitute appropria-

tions of the amounts specified therein for the purpose of expenditure from the funds indicated.

(Election of 11-9-1971)

**Sec. 7. Annual tax levy.**

The council must finally adopt, not later than the last regularly scheduled meeting in July, an ordinance levying upon the assessed valuation of the property of the city, subject to the provisions of this charter, a rate of taxation upon each one hundred dollars or valuation sufficient to raise the amount estimated to be required in the annual budget, less the amounts estimated to be received from fines, licenses and other sources of revenue. The city clerk shall then certify a copy of the tax levy ordinance to the county assessor, who shall compute and carry out the amount of the taxes so levied upon each parcel of property contained within the city limits.

(Election of 11-5-1985)

**Sec. 8. Limitation on tax levy.**

The tax levy authorized by the council to meet the municipal expenses for each fiscal year shall not exceed, except as herein provided, the rate of \$1.00 on each one hundred (100) dollars of the assessed value of all real and personal property within the city.

**Sec. 9. Taxes to be uniform and for public purposes only; property to be assessed at full cash value; full cash value defined.**

All taxes shall be uniform upon the same class of property within the corporate limits, and shall be levied and collected for public purposes only; and all property shall be assessed at its full cash value. The term "full cash value," as used herein shall mean the price at which the property would sell if voluntarily

offered for sale by the owner thereof, upon such terms as like property is usually sold and not the price which might be realized if it were sold at forced sale.

**Sec. 10. Tax exempt property; widow's exemption; provisions for making certain other classes of property exempt; limitation on tax ordinances.**

There shall be exempt from taxation all federal, state, county and municipal property; property of educational, charitable and religious associations and institutions not used or held for profit shall be exempted from taxation.

Public debts, as evidenced by the bonds of Arizona, its counties, municipalities, or other subdivisions, shall be exempt from taxation. There shall further be exempt from taxation the property of widows, resident of this city, not exceeding the sum of one thousand (1000) dollars, where the total assessment of said widow does not exceed two thousand (2000) dollars.

All property in the city not exempt under the laws of the United States, the laws of the State of Arizona, under the Charter and ordinances of this city, shall be subject to taxation, to be ascertained as provided by ordinance; provided, however, that when not in conflict with law the council may by ordinance submitted to and approved by the qualified electors of the city, under the provisions of Chapter XVI of this Charter, exempt in part or in whole improvements on real estate, also personal property, exclusively used in the operation and maintenance of manufactories in the city.

No tax shall be levied except in pursuance of this Charter, and every ordinance imposing a tax shall state distinctly the object of the tax, to which object only it shall be applied.

**Sec. 11. Additional taxes for special purposes.**

The council shall have the power to levy and collect taxes in addition to the taxes herein authorized to be levied and collected, sufficient to pay the interest and maintain the sinking fund of the bonded indebtedness of the city and to provide for the establishment and support of free public libraries and reading rooms.

**Sec. 12. Cash basis fund set up; transfer of sums from cash basis fund to other funds; transfer of sums from any funds to interest funds.**

The council shall create and maintain a permanent revolving fund to be known as the Cash Basis Fund, for the purpose of putting the payment of the running expenses of the city on a cash basis. For this purpose the council shall provide that from the money collected from the annual tax levy, and from the money received from other sources, a sum equal to not less than two and one-half (2½) cents on each one hundred (100) dollars of the assessed value of said property shall be placed in such fund until the accumulated amount of such fund shall be sufficient to meet all legal demands against the treasury for the first four (4) months or other necessary period of the succeeding fiscal year.

The council shall have power to transfer from the Cash Basis Fund to any other fund or funds such sum or sums as may be required for the purpose of placing such fund or funds, as nearly as possible, on a cash basis. It shall be the duty of the council to provide that all moneys so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.

Whenever there shall not be sufficient moneys, in any of the interest funds for the bonded indebtedness of the city to pay the interest on

such bonded indebtedness when due, the council shall direct the transfer from the general or any other fund having moneys therein to such interest funds the necessary amounts of money to pay the interest on said bonded indebtedness, and the amounts so transferred shall be returned to the respective funds from which such transfer was made whenever sufficient moneys shall accrue in said bonded indebtedness funds, from the regular tax levied therefor.

**Sec. 13. Tax liens.**

All taxes assessed, together with any percentage imposed for delinquency and cost of collection, shall continue liens on the property assessed; every tax on personal property shall also be a lien upon the real property of the owner thereof. The lien provided for in this section shall attach as of the first Monday in January of each year, and may be enforced by actions in any court of competent jurisdiction to foreclose such liens, or by a sale of the property affected and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as are now prescribed by Statutes of Arizona for the foreclosure and collection of tax liens, or under such regulations for the foreclosure and collection of tax liens, as may hereafter be prescribed by the council by ordinance, power to prescribe which regulations is hereby given and vested in said council. Provided, however, that when real estate is offered for sale for city taxes due thereon, and there is no bidder therefor, the same shall be struck off and sold to the city, in like case and in like manner and with like effect and with like right of redemption, as it may be struck off and sold to the State when offered for sale for State and county taxes; and the council shall have the power to provide for the procedure to be followed in such sales to the city and redemption thereafter.

**Sec. 14. Claims or demands against the City.**

The city manager or his designee must not hear or consider any claim in favor of anyone against the City unless an account properly made out giving all the items of the claim, is presented to him within one year after the last item of the account accrued, except claims of officers and employees of the City for their salaries. When the manager finds that any claim presented is not payable by the city, or is not a proper city charge, it must be rejected; if he finds it to be a proper city charge but for a greater amount than is due, the manager may allow the claim in part and order paid the portion allowed. A claimant who is not satisfied with the rejection of his claim or demand, or the amount allowed him on his account may sue the city therefor at any time within three months after final action of the manager. No demand on the city shall be allowed by the manager in favor of any person in any manner indebted to the city, without first deducting such indebtedness, or in favor of any officer whose accounts shall not have been rendered and approved or who shall have neglected or refused to make his official returns or reports in writing, as required by the provisions of this Charter, or in favor of any officer who shall wilfully neglect and refuse to perform any of the duties of his office.

The manager or his designee shall have the power to question any person presenting a demand on the city, or the agent or attorney of such person, or any other person, in order to ascertain any facts necessary or proper for him to know in order to determine the allowance or disallowance of such demand. Money shall be drawn from the treasury, except as otherwise provided in this Charter, only upon warrants signed by the manager and city clerk, and

claims and demands against the city shall be paid only upon such claims and demands being duly allowed by the manager or his designee. (Election of 11-9-1971)

**Sec. 15. Warrants to be drawn upon treasury only if money available in appropriate fund; claims for running expenses and purchases not to exceed amount appropriated for running expenses.**

No warrant shall be drawn upon the treasury for running expenses, nor shall any claim for such expense be allowed, unless there shall then be money in the appropriate fund in the treasury sufficient to pay the same. Any warrant issued in violation of this section or any claim allowed contrary to its provisions, shall be invalid and unenforceable.

And no claim, on account of running expenses, which with the aggregate with all other claims theretofore allowed for such expenses during any fiscal year, which exceeds the amount appropriated for running expenses for that year, shall constitute a valid demand against the city.

And it shall be unlawful for any officer, agent, or employee of the city to purchase any materials, or supplies, or employ any labor, or service, the cost of which, with the aggregate of the cost of materials, or supplies, labor or service theretofore purchased or employed during the then current year, shall exceed the amount appropriated for running expenses for that year.

Notwithstanding any provision of this Charter to the contrary the Council shall have the power to establish a Check Purchase Order System utilizing an Imprest Checking Account for limited routine expenditures. Any Ordinance establishing such a system shall specify the circumstances under which the system may

be employed, including the limitations on the type of transactions subject to the system, amounts that may be expended and the classes of employees that may be authorized to make use of the system. The City Manager shall designate and appoint in writing those individual employees authorized to use the Check Purchase Order System. The Imprest Checking Account shall be funded by warrant in an amount determined by the Council.  
(Election of 11-6-1979)

**Sec. 16. Disposition of City funds collected or received.**

Every officer collecting or receiving any moneys belonging to or for the use of the city shall settle for the same with the city treasurer on or before the last day of each month or at more frequent intervals as may be directed by the manager, and immediately pay the same to the city treasurer, for the benefit of the funds to which said moneys severally belongs. When the last day of the month falls on Sunday or a legal holiday, the said payments shall be made on the next preceding business day.

**Sec. 17. Depositories for City moneys; investments.**

In addition to authority granted by Arizona Statutes, the council may cause City moneys to be deposited or invested in Certificates of Deposit or other forms of deposit or investment, in any financial institution within the United States, upon sufficient security being given the City therefor by said financial institution, the policies and administration relating to such investments and security to be as provided by ordinance adopted by the Council.  
(Election of 11-9-1971; election of 11-1-1983)

**Sec. 18. Capital improvement program.**

A. *Preparation.* The city manager shall prepare and submit to the council a five year capital improvement program at least three

months prior to the final date for submission of the budget, or on such date in each year as shall be fixed by the council. The capital improvement program shall list all capital improvements proposed to be undertaken during the next five fiscal years next ensuing, including appropriate supporting explanations of the necessity for improvements, costs estimates, proposed methods of financing and recommended time schedules for each improvement. The program shall be in such form as the manager deems appropriate. The program may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

B. *Council action on capital improvement program.* The council shall hold a public hearing on the proposed capital improvement program submitted by the city manager. A notice of the time and place of such public hearing shall be published in the official city newspaper not less than two weeks prior to such public hearing. After the public hearing, the council, by resolution, shall adopt the tentative capital improvement program with or without amendment.

(Election of 11-9-1971)

**Sec. 19. Exemption of certain goods from taxation.**

In accordance with the provisions of Chapter XVIII, Section 10, of this Charter, all goods, merchandise, raw material, finished products, stock and inventory, whether unfabricated, partly fabricated, or fully fabricated, exclusively used or intended for use in and about, or in connection with the operation or maintenance or both of any manufactory or manufactories located within the City of Phoenix shall be exempt from all taxation. This exemption shall pertain exclusively to personal property known as inventories of manufactories. In accordance with

the provisions of Chapter XVIII, Section 10, of this Charter all equipment and machinery exclusively used in the operation or maintenance or both of any manufactory or manufactories located within the City of Phoenix which shall be primarily engaged in the fabrication of products shall be assessed for tax purposes at thirty percent (30%) of their valuation based on cost less depreciation.

the manager shall advertise for bids for the public works contemplated, and for furnishing such supplies, materials, or services and ask for sealed proposals.

The advertisement for bids shall distinctly and specifically state the character of the public works contemplated and the kind of supplies, materials or services required. Such notice shall be published at least once in the official newspaper. The manager may, with the consent of the council, let the contract to the lowest responsible bidder, may reject any and all bids, and may re-advertise for bids, or provide for the public works to be done under his direction and supervision and purchase all supplies and materials required. In case he re-advertises, and no bid is received, he may, with the consent of the council, provide for the public works to be done under his direction and supervision, and purchase such supplies and materials as may be required.

**CHAPTER XIX. CONTRACTS\***

**Sec. 1. Preparation.**

All contracts shall be drawn under the supervision of the city attorney, must be in writing, executed in the name of the City of Phoenix by the manager, except as it may be otherwise provided either by this Charter or by law, and must be countersigned by the city clerk, who shall number and register the same in a book kept for that purpose.

**Sec. 2. Progressive payments; limitations on payments to be made prior to completion of work.**

Any contract may provide for progressive payments. No contract shall provide for or authorize or permit the payment of more than ninety percent of the total contract price before the completion of the total work to be done under said contract and the acceptance thereof by the proper officer, department or board.  
(Election of 11-1-1977)

The restrictions of this section shall not apply to the following:

1. Contracts for professional services when authorized by action of the city council;
2. Contracts for labor, materials, or supplies for actual emergency public works, when authorized by action of the city council.

(Election of 11-9-1971)

**Sec. 3. Bids.**

In all public works, including the furnishing of supplies, materials, and services for the same, when the expenditure required exceeds the sum of Five Thousand Dollars (\$5000.00),

\*State law reference—Public works contracts, A.R.S. § 34-201 et seq.

**Sec. 4. Contracts for official advertising.**

The manager shall let annually contracts for official advertising for the ensuing fiscal year. For this purpose he shall submit to each newspaper published in the city, a notice describing the contemplated advertising and asking for sealed proposals. The proposals shall specify the type and spacing to be used at the rate or rates named in the bid. The manager shall let the contracts for such official advertising to the

lowest and best bidder publishing a newspaper of general circulation in the City; provided that in his discretion he may reject any and all bids and proceed to secure new bids in the manner herein provided.

The newspaper to which the award for such advertising is made shall be known and designated as the official newspaper.  
(Election of 11-9-1971)

#### **Sec. 5. [Reserved.]**

**Editor's note**—Section 5, titled "Eight hour day requirements; minimum wages; citizenship requirements," was repealed at the election of November 9, 1971.

#### **Sec. 6. Paydays.**

The city, and every department thereof, and every contractor employed under a contract by the city or by any of its departments shall designate regular days not more than sixteen (16) days apart as days fixed for the payment of wages to the employees thereof. However, this provision shall not apply to officers of the city whose compensation is fixed by annual or monthly salaries.

#### **Sec. 7. Fraud and collusion.**

Any officer of the city, or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, materials or supplies at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall wilfully mislead any bidder in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done, or who shall knowingly accept materials or supplies of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor performed than has

been actually performed, or to the receipt of a greater amount or different kind of material or supplies than has been actually received, shall be deemed guilty of a misdemeanor and shall be removed from office.

#### **Sec. 8. Avoidance of contracts made through fraud and collusion.**

If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid, or bids colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void, and the council shall advertise for a new contract for said work, or provide for such public work to be done by the city under the direction of the manager.

#### **Sec. 9. [Reserved.]**

**Editor's note**—Section 9, titled "Employment of city residents," was repealed at the election of November 9, 1971.

### **CHAPTER XX. FRANCHISE AND PUBLIC UTILITIES\***

#### **Sec. 1. Vote of people required.**

No franchise shall be granted, extended or renewed by the city without the approval of a majority of the qualified electors residing within its corporate limits voting thereon at a general or special election; and the council shall submit any matter for approval or disapproval to such electors at any general municipal election, or call a special election for such purpose at any time upon thirty (30) days' notice; and the council shall require, before calling any such general or special election, that the estimated

**\*State law reference**—Public utilities, A.R.S. § 9-501 et seq.

expense thereof (to be determined by the Council) shall be first deposited by the applicant for such franchise with the City Clerk.

**Sec. 2. Franchise to be specific.**

All franchises or privileges hereafter granted shall be specific in their terms and shall plainly specify on what particular geographical area and upon what specific type of public right-of-way or public property therein the same shall apply, and no franchise or privilege shall hereafter otherwise be granted by the City. (Election of 3-8-2005, eff. 3-22-2005)

**Sec. 3. Regulation of rates, fares, service, etc.**

Limited only by the constitution of the State of Arizona, the power to regulate the rates, fares and charges for public utility corporations is hereby reserved to the people, to be exercised by them by ordinance of the Council, or in the manner herein provided for initiating and referring an ordinance.

Any right or regulation shall further include the right to require the uniform, convenient and adequate service to the public, and reasonable extensions of such service and of such public utility works.

**Sec. 4. Ordinances granting rights, privileges, etc., to be unambiguous.**

No franchise, right or privilege or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms, and any and every ambiguity shall be construed in favor of the City and against the claimant under such ordinance.

**Sec. 5. Stock issues in connection with franchises.**

Every ordinance granting any franchise shall prohibit the issuing of any stock on account

thereof by any corporation holding or doing any business under said franchise. Any violating of the terms of this section shall, at the option of the City, operate as a forfeiture of said franchise.

**Sec. 6. Additional taxes on property of public utilities.**

The City shall have the right to license or tax street cars, telephones, gas meters, electric meters, water meters, or any other similar device for measuring services; also telephone, telegraph, electric light and power poles, subways and wires. The said license or tax shall be exclusive of and in addition to all other taxes upon the property of the holder thereof.

**Sec. 7. Policemen, firemen and mailmen to ride streetcars, etc., free.**

The grant of every franchise for a street, suburban or interurban railroad shall provide that all United States mail carriers and all policemen and firemen of the City in uniform shall, at all times, while in the actual discharge of their duties, be allowed to ride on the cars of such railroad within the boundaries of the City, without paying therefor, and with all the rights of other passengers.

**Sec. 8. Authority of Council to order railroad companies to raise or lower their tracks.**

The Council shall by ordinance require, under proper penalties, any railroad company, whether steam or electric, to elevate or lower any of its tracks running over, along or across any of the streets, avenues or alleys of the City, whenever in the opinion of the Council the public safety or convenience require.

**Sec. 9. Right of City to secure the public welfare, etc.**

The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make all regulations which shall be necessary to secure, in the most ample manner, the safety, welfare and accommodation of the public, including among other things the right to pass and enforce ordinances to require proper and adequate extensions of the service of such grant, and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience.

**Sec. 10. Exclusive franchises prohibited; renewal of franchises.**

No exclusive franchise shall ever be granted, and no franchise shall be renewed before three (3) years prior to its expiration.

**Sec. 11. Leasing, etc., of franchises.**

No franchise granted by the City shall ever be leased, assigned or otherwise alienated without the express consent of the City, and no dealing with the lessee or his assigns on the part of the City to require the performance of any act or payment of any compensation by the lessee or his assigns shall be deemed to operate as such consent.

**Sec. 12. Extension of franchises; side track and switch privileges.**

No extension or enlargement of any franchise, or grant, or rights, or powers, previously granted to any corporation, person or association of persons, shall be made except in the

manner and subject to all the conditions herein provided in this chapter for the making of original grants and franchises; provided, however, that the provisions of this Chapter shall not apply to the granting by ordinance of revocable licenses or privileges for side track or switch privileges, to railway companies for the purpose of reaching and affording railway connection and switch privileges to the owners or users of any industrial plant, warehouse or mercantile establishment it being the intention to permit the City to grant such revocable license or privilege to railway companies whenever in its judgment the same is expedient, necessary or advisable, and application for such a privilege is accompanied by the assent in writing of the owners of the major part of the frontage of the lots or tracts of land of the blocks fronting on each side of any street, or parts of a street, over or on which it is desired to lay or construct such side tracks or switches.

**Sec. 13. Common use of tracks, poles, etc.**

The Council shall have the power by proper ordinance to provide, or to incorporate in the franchise or privilege granted, or to be granted, suitable provisions for the common use of the tracks, poles, or other property of the corporation securing the privilege or franchise, by other corporation carrying on the same or a similar kind of business; providing, however, for suitable compensation to the owner of such property, or for the free use thereof as the council shall deem proper.

**Sec. 14. Annual reports required of franchise holders; inspection of books and property by City Manager.**

The Manager shall have general supervision over all corporations operating under franchises or privileges granted them by the City, and shall at least once in each year demand and receive

reports from all such corporations, covering the condition of the business, the gross earnings, the net earnings and the extent to which the franchise of such corporation is being exercised, and shall have the right to appoint one (1) or more persons to inspect the books and property of said corporation, for such purposes and to verify such reports; and any such failure to make such reports when demanded, or to permit such inspection, shall be ground, at the option of the Council, for the forfeiture of such franchise or privilege.

**Sec. 15. Franchise record to be kept; contents; applicability of section.**

The Manager shall provide and cause to be kept in the office of the City Clerk a franchise record, indexed and of proper form in which shall be transcribed accurate and correct copies of all franchises and grants by the City to any person, persons or corporation, owning or operating any public utility. The index of said record shall give the name of the grantee and thereafter the name of any assignee thereof. Said record shall be a complete history of all franchises granted by the City and shall include a comprehensive and convenient reference to actions, contests or proceedings at law, if any, affecting the same, together with all reports and inspection reports as herein provided and such other matters of information and public interest as the Mayor or Manager may, from time to time, acquire, and such other matters as the Council may by ordinance direct. All annual and inspection reports may by direction of the Council be published once in the official newspaper of the City, or printed and distributed in pamphlet form, as the Council may deem best, and in case annual reports are not filed and inspections are not made as provided, the Mayor shall, in writing, report to the Council the reason therefor, which report shall be transcribed in the record of the person, persons or

corporation owning or controlling said franchise or grant, and published in the official newspaper of the City, or printed and distributed in pamphlet form as the Council shall deem best.

The provisions of this section shall apply to all persons or corporations operating under any franchise now in force or hereafter granted by the City.

**Sec. 16. Account books.**

Suitable books shall also be provided by the manager for keeping account of the various moneys paid in by persons or corporations in connection with franchises or privileges granted by the City, and such books of account shall always be open for examination by proper City officials or any citizen of the City.

**Sec. 17. Time limit of franchises; compensation to City.**

No franchise shall be granted, extended or renewed by the City for a period longer than twenty-five (25) years from the date of granting such franchise, and the Council shall provide in each and all such franchises and grants suitable compensation to the City, to be figured and based on the gross earnings, or the value of the property used by such grantee in connection with such franchise, as to the Council may seem proper, and for the best interest of the City. The franchise may also include additional compensation to the City for the cost of relocating the grantee's facilities in the public right-of-way due to design and construction of a transportation system to transport passengers by rail, the rail system, and provisions for payment to grantee from such additional compensation if grantee relocates such facilities due

to the design and construction of the rail system at its own costs with satisfactory documentation of such relocation costs to the City.  
(Election of 3-8-2005, eff. 3-22-2005)

**Sec. 18. Purchase of public utilities by City; conditions of grants; right of City to operate or sell plants and property acquired.**

Every grant of a franchise or right shall provide that the City may upon payment thereof of its fair valuation, to be made as provided in the grant, purchase and take over the property and plant of the grantee in whole or in part.

The procedure to effect such purchase shall be as follows: When the council shall, by resolution, direct the manager to ascertain whether any such property, or part thereof, should be acquired by the City, or in the absence of such action of the Council, when a petition subscribed by ten (10) per centum of the qualified tax paying electors requesting that the Manager shall ascertain whether any such property, or part thereof should be acquired by the City, shall be filed with the City Clerk, the manager shall forthwith carefully investigate said property and report to the Council:

- (1) At what probable cost said property may be acquired.
- (2) What, if any, probable additional outlays would be necessary to operate the same.
- (3) Whether, if acquired, it could be operated by the City at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists.
- (4) Whether, if acquired, it could be paid for out of its net earnings, and if so, within what time.

- (5) Such other information touching the same as he shall have acquired.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the Council to judge of the correctness of his findings, and immediately after submission to the Council, shall be filed with the City Clerk, recorded in the Public Utility Record, and published once in the official newspaper of the City, or printed and distributed in pamphlet form, as the Council may direct.

- (a) If, within sixty (60) days after the filing of said report, a petition be filed with the City Clerk subscribed by fifteen (15) per cent of the qualified electors of the City, as provided in Chapter XV of this Charter, and requesting that there be submitted to a vote of the qualified electors the proposition whether or not the City shall acquire said property, the council shall provide by ordinance for the submission of the proposition to a vote of the qualified electors.
- (b) Every grant reserving to the City the right to acquire the plant, as well as the property, if any, of the grantee, situated in, on, above or under any of the streets, avenues, alleys or public places in the City, or elsewhere, used in connection therewith, shall in terms specify the method of arriving at a valuation thereof, and shall further provide that, upon the payment by the City of such valuation, the plant and property so valued, purchased and paid for shall become the property of the City by virtue of the grant and payment thereunder; and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the

continued maintenance of the property in good order and repair throughout the entire term of the grant.

- (c) Whenever any plant or property shall become the property of the City it shall have the right to operate the same on its own account, or by ordinance to sell the same to the highest bidder at public auction, but no sale thereof shall be made until submitted to and approved by the people as in the manner provided by Chapter XVI of this Charter.

**Sec. 19. Additional conditions of grants.**

The enumeration and specification of particular matters in this Charter which must be



included in every grant shall not be construed as impairing the right of the council to insert in such franchise or grant, such other and further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeiture, or any other provision whatever which the council shall deem proper to protect the interests of the people.

**Sec. 20. Temporary permits and licenses for use of streets, alleys, etc.**

The manager shall have the right and power to issue revocable temporary permits and licenses to any person, association or corporation operating under a franchise or grant from the city, for the purpose of temporarily making use of a part of the streets, avenues, alleys or other public places in the city, for the better carrying out of the object of the said franchise or grant and as an aid for rendering better or more convenient service to the people of the city, or such of them to whom such service is or might be rendered within the contemplation of such franchise or grant; such license or permit to be subject to revocation or discontinuance at any time in the discretion of the manager or council, and shall be subject to such restrictions, limitations, burdens and regulations as the council may impose. The licensee or permittee of such license or permit, upon receiving notice from the manager of the revocation of such license or permit, shall forthwith remove any property or obstruction on, in or under any street, avenue, alley, public place or building described in such notice; and, upon failure to remove said property or obstruction immediately upon the receipt of such notice, the licensee or permittee of such license or permit revoked, and all other persons acting for or in behalf of such licensee or permittee, operating upon or using any street, avenue, alley or public place or building for the operation or use of which the license or

permit therefor is revoked, shall be considered and treated as trespassers, be removed therefrom, and shall be guilty of a misdemeanor.

**CHAPTER XXI. MISCELLANEOUS PROVISIONS**

**Sec. 1. Effective date of Charter.**

For the purpose of nominating candidates and electing a mayor and four commissioners, in accordance with this Charter, this Charter shall take effect from the time of the approval of the same by the governor of the State of Arizona.

**Sec. 2. Conduct of first election.**

The mayor and common council of the City of Phoenix, who shall be in office at the time of the approval of this Charter, by the governor of the State are hereby empowered, authorized and directed to provide the necessary means for securing the nomination of candidates for the several offices to be voted for under the provisions of this Charter, at the first election to be held thereunder, and to provide all necessary means and paraphernalia and polling places for the holding of such elections, as herein provided, and they shall also act as the canvassing board for the canvass of the votes cast at such election and shall declare the results thereof and secure the recording of the same, as contemplated by the provisions of this Charter, and they shall also approve the bonds of all the officers elected at such election.

**Sec. 3. Assumption of office by original officers.**

Immediately upon the election and qualification of such officers, as herein provided, the officers and employees of "The Common Council of the City of Phoenix" shall turn over and

deliver to such officers, all the property, papers, records, seal, and other paraphernalia belonging to "The Common Council of the City of Phoenix"; which said act shall be accomplished by the passage and recording in the proper book of a resolution to the effect that all of the property, rights, records, papers, property rights and paraphernalia now belonging to the Common Council of the City of Phoenix, are hereby transferred to and delivered to the officers of the City of Phoenix, pursuant to the requirements of the Charter adopted by the electors of the City, giving the date of such adoption.

**Sec. 4. Mayor and Councilmen to remain until successors qualify; termination of the terms of other officers and employees; compensation of other officers and employees.**

The mayor and members of "The Common Council of the City of Phoenix," in office at the time of the approval of this Charter by the governor, shall continue to hold office and discharge their duties until the election and qualification of the mayor and councilmen first elected under this Charter.

The terms of all other officers in office at the time this Charter takes effect and that of all employees of the city at the time this Charter shall take effect, shall cease and terminate when the council first elected shall by resolution so declare.

The compensation of all such officers and employees remaining in office, after the election and qualification of said council, and until the adoption of such resolution, shall be paid out of the city treasury in the manner provided by the council.

**Sec. 5. Ordinances, etc., to remain in force.**

All ordinances, resolutions, and regulations of "The Common Council of the City of Phoenix,"

in force at the time this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

**Sec. 6. Duties of City Attorney; authority of Council to employ additional attorneys.**

The city attorney shall attend all meetings of the council; shall prosecute in behalf of the people, all criminal cases arising from violations of the provisions of this Charter, and the ordinances of this city; shall attend to all suits and proceedings in which the city may be legally interested; provided that the council shall have control of all litigation of the city, and may employ other attorneys to take charge of any litigation or to assist the city attorney therein, and may provide for the payment for such additional legal services and all proper services or work done on behalf of the city in connection with its legal matters.

**Sec. 7. Prosecution of violations of Charter and ordinances; imprisonment of violators.**

The violation of any provision of this Charter or of any ordinance of the city shall be deemed a misdemeanor, and may be prosecuted by the authorities of the city in the name of the State of Arizona, or may be redressed by civil action, at the option of the council. Any person sentenced to imprisonment for violation of a provision of this Charter, or of an ordinance, may be imprisoned in the city jail, or, if the council, by ordinance, shall so prescribe, in the county jail of the county in which the City of Phoenix is situated; in which case the expense of such imprisonment shall be a charge in favor of said county against the City of Phoenix.

**Sec. 8. Enlargement of City.**

The City of Phoenix, by and through its council, may by ordinance enlarge and add to and incorporate within the present City of Phoenix, such adjacent land and incorporate into the City of Phoenix such additional area and territory as the said council shall deem proper and wise. The procedure for making such enlargement, extension and addition, shall be such as is now, or may hereafter be prescribed by statute, or by ordinance passed and adopted by the said council.

**State law reference**—Annexation, A.R.S. § 9-471 et seq.

**Sec. 9. Plenary and implied powers of the Council.**

The council shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express, as well as the implied powers granted in this Charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the City of Phoenix, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the city and its inhabitants.

**Sec. 10. Pending prosecutions to be carried to judgement.**

All prosecutions to enforce penalties for the violation of any of the ordinances of the "The Common Council of the City of Phoenix" heretofore begun shall be continued and concluded to judgment and execution before the city recorder, or the city magistrate, in like manner and to the same effect as if this Charter had not been adopted.

**CHAPTER XXII. AMENDMENTS**

**Sec. 1. Authority.**

This charter, or any part or subdivision thereof, may be amended in the manner provided in the state constitution and this charter:

1. By initiative petition of the people as herein provided;
2. By referral by affirmative vote of a majority of the members of the city council as herein provided;
3. By referral by affirmative vote of all members of the city council as provided in Section 3 hereof.

(Election of 11-9-1971)

**Sec. 2. Limitations.**

No amendment shall be effective until approved by a majority vote of the qualified electors voting thereon at a regular or special election.

(Election of 11-9-1971)

**Sec. 3. Ballot form; vote by descriptive title and condensed statement.**

If approved by a unanimous vote of all members of the city council, the form of ballot for such charter amendment election may state the various propositions and questions thereof by descriptive title expressing the purpose of the amendment by a true and impartial statement that fairly represents the content of such amendment. No descriptive title shall contain more than one subject matter and each individual proposition or question shall be so separately stated that a vote for or against each may be expressed. Immediately following the descriptive title and statement shall be printed the words "Shall the amendment (stating the de-

scriptive title) be adopted?" and immediately thereafter the words "Yes" and "No" shall be printed on separate lines with voting squares. (Election of 11-9-1971)

**CHAPTER XXIII. PARKS AND RECREATION BOARD**

**Sec. 1. Creation; composition.**

The city council shall create by ordinance a Parks and Recreation Board consisting of five or more members to be appointed by the council for terms as specified by said ordinance. (Election of 11-9-1971)

**Sec. 2. Powers and duties.**

[1.] The Parks and Recreation Board shall have the following powers and duties:

- 1. As trustee or trustee and successor in interest to its predecessor in interest for the City of Phoenix, to receive, accept or acquire by grant, gift, bequest or devise, property of every kind, real, personal or mixed, wheresoever situate, in fee, trust or otherwise, subject to any provisions made by the donor of such grant, gift, devise or bequest, or to the terms of any trust instrument by virtue of which the property may have been acquired.
- 2. To establish operating policies for recreational facilities and services within and without the city as the developing public recreation needs may require.
- 3. To enter into contracts to grant concessions, licenses and permits for the use of the recreational facilities of the city and to contract with others for the use of recreational facilities needed by the city.

- 4. To establish schedules of charges for miscellaneous recreational facilities and to advise the city council on fees to be set by council on golf courses, tennis centers and swimming pools.
- 5. To advise the council concerning recreational needs and recommend acquisition, location, and nature of facilities to meet said needs.
- 6. To receive and consider the proposed annual budget for parks and recreation purposes during the process of its preparation and make recommendations with respect thereto.
- 7. To perform such other duties as may be prescribed by ordinance not inconsistent with the provisions of this charter.

2. There is hereby appropriated an annual sum to be specified by the Park Board not in excess of Eight Cents (\$.08) on each One Hundred Dollars (\$100.00) of the assessed value of all real and personal property of the City of Phoenix as assessed for city taxes, which said sum shall be included annually in the budget of the City of Phoenix, and a levy made therefor. The Park Board must expend annually from any amount so specified an amount equal to One Cent (\$.01) on each One Hundred Dollars (\$100.00) of the value of all real and personal property of the City of Phoenix as assessed for city taxes for the purpose of improving the parkways of the city and acquiring and planting additional trees and shrubbery on the parkways of the city. Additional appropriations may be made from the general city funds.

(Election of 11-9-1971)

**CHAPTER XXIV. PHOENIX CITY  
EMPLOYEES' RETIREMENT LAW OF  
1953**

**ARTICLE I. REPEAL OF PHOENIX CITY  
EMPLOYEES' RETIREMENT SYSTEM  
LAW OF 1945\***

**Sec. 1. System repealed; conditions.**

Chapter XXIV of the Charter of the City of Phoenix, being the Phoenix City Employees' Retirement System Law of 1945, is repealed as of December 29, 1953,† subject to the following conditions.

- 1.1. Any person who retired for age or service or age and service under the said Chapter XXIV and who is in receipt of or is entitled to receive benefits thereunder prior to its repeal shall continue to receive the said benefits or shall continue to be entitled to receive the said benefits to the same extent and in the same manner in all aspects as if the said Chapter XXIV has not been repealed. If such retirant shall have elected one of the actuarially equated options provided for in the said Chapter XXIV his duly designated beneficiary shall, upon the retirant's death, receive the same benefit to which the said beneficiary was entitled under the said Chapter XXIV.
- 1.2. Any person who retired for disability under the said Chapter XXIV and who is in receipt of or is entitled to receive benefits thereunder prior to its repeal shall, subject to the conditions set forth

\*Editor's note—The section catchlines in art. I were added by the editor.

†Editor's note—Ordinance states December 22, 1953. Official ballot and authentication of amendment printed as December 29, 1953.

in the said Chapter XXIV, continue to receive the same benefits or shall continue to be entitled to receive the said benefits to the same extent and in the same manner in all respects as if the said Chapter XXIV had not been repealed. At such time as he shall cease to meet such conditions his benefits shall cease and as to him the said Chapter XXIV shall have no further application. If any such person shall have elected one of the actuarially equated options provided for in the said Chapter XXIV, his duly designated beneficiary shall, upon the retirant's death, receive the same benefit to which the said beneficiary was entitled under the said Chapter XXIV.

- 1.3. Any beneficiary of a deceased retirant or member who is in receipt of or is entitled to receive benefits under the said Chapter XXIV prior to its repeal shall continue to receive the said benefits or shall continue to be entitled to receive the said benefits to the same extent and in the same manner in all respects as if the said Chapter XXIV had not been repealed.
- 1.4. Any person who, as of the date the said Chapter XXIV is repealed, meets the requirements for retirement under the said Chapter XXIV, but has not applied for retirement, may make such application and retire on or before June 30, 1954, in the same manner in all respects as if the said Chapter XXIV had not been repealed. He, or his duly designated beneficiary, if any, shall thereafter receive benefits to the same extent and in the same manner in all respects as if the said Chapter XXIV had not been repealed, provided any such benefits

shall be based upon accumulated contributions, average final compensation and service credit as of the date of the repeal of Chapter XXIV.

- 1.5. If any member dies after the repeal of the said Chapter XXIV but on or before June 30, 1954, and leaves beneficiaries entitled to receive benefits under the said Chapter XXIV, his said beneficiaries shall receive benefits to the same extent and in the same manner in all respects as if the said Chapter XXIV had not been repealed, provided said benefits shall be based upon his final compensation as of the date of the repeal of Chapter XXIV.
- 1.6. If any member becomes disabled after the repeal of the said Chapter XXIV but prior to July 1, 1954, he shall be entitled to receive disability benefits provided for in the said Chapter XXIV, subject to all conditions pertaining to disability beneficiaries and disability benefits contained in the said Chapter XXIV, to the same extent and in the same manner in all respects as if the said Chapter XXIV had not been repealed, provided said disability benefits shall be based upon his accumulated contributions, average final compensation and service credit as of the date of repeal of Chapter XXIV.
- 1.7. Interest on members' accumulated contributions credited to their Chapter XXIV annuity savings fund accounts shall cease as of December 1, 1953. The said accumulated contributions shall be set aside and held in a trust fund, called Chapter XXIV employees trust fund, which is hereby created for the purpose of refunding the said accumulated contributions to the respective members or their beneficiaries entitled to same. The rights

of any person to such refund, or the trust fund itself, shall not be subject to attachment, garnishment, the operation of bankruptcy or insolvency law, or any other process except as is provided in this Chapter. The accumulated contributions of any member entitled to benefits under sections 1.4 and 1.6 of this Article shall be transferred to the Chapter XXIV retirement fund provided for in section 1.9 of this Article.

- 1.8. Prior to July 1, 1954 the accumulated contributions held in the Chapter XXIV employees trust fund shall be returned to the respective persons entitled to same, less one and one-half per cent of the total amount of his salary not to exceed \$3600.00 per annum earned since January 1, 1951 to be paid for retroactive coverage for coverage under the Federal Old Age and Survivor's Insurance Program, unless the member shall, in writing, direct the Chapter XXIV retirement board to otherwise dispose of same. In the event a member dies before his accumulated contributions have been disposed of, his said accumulated contributions shall be treated in the same manner in all respects as if the said Chapter XXIV had not been repealed, except that there shall be deducted for payment to the State contribution fund one and one-half per cent of the total amount of his salary not to exceed \$3600.00 per annum earned since January 1, 1951.
- 1.9. The balance of the assets of the said Phoenix City Employees Retirement System, after providing for the Chapter XXIV employees trust fund, shall be set aside and held in a trust fund, called Chapter XXIV retirement trust fund,

which is hereby created for the purpose of disbursing the said assets for the purposes for which they were accumulated under the said Chapter XXIV.

1.10. The assets credited to the Chapter XXIV employees trust fund and the Chapter XXIV retirement trust fund shall be held in one account.

1.11. Until their successors have been elected or appointed and have qualified, the retirement board of the Phoenix City Employees' Retirement System, and the responsibilities of officers and employees of the City of Phoenix engaged in the administration of said Retirement System, are continued to administer and carry into effect the provisions of this Article.

## **Sec. 2. Effective date.**

This Article I shall be in force and effect December 29, 1953.

**Editor's note**—Ordinance states December 22, 1953. Official ballot and authentication of amendment printed as December 29, 1953.

## **ARTICLE II. CITY OF PHOENIX EMPLOYEES' RETIREMENT PLAN**

### **Sec. 1. Short title.**

1.1. This Article II may be cited as the City of Phoenix Employees' Retirement Law of 1953.

### **Sec. 2. Definitions.**

2.1. The following words and phrases as used in this Article, unless a different meaning is clearly required by the context, shall have the following meanings:

2.2. "City" means the City of Phoenix, Arizona.

2.3. "Retirement Plan" or "plan" means the City of Phoenix Employees' Retirement Plan continued in this Article.

2.4. "Retirement Board" or "board" means the Retirement Board provided in this Article.

2.5. "Employee" means any person, in the employ of the City on a full time basis, who is under the classified civil service, except as hereinafter excluded, and shall include appointive officials whose employment with the City is on a full time basis. For the purposes of this Article, "full time basis" means employment on a work schedule which consists of the number of full time hours per week designated for the class of employment for the employee's classification, and which work schedule is intended to be continuous over a period of 12 months at the aforementioned full time hours per week. The term "employee" shall not include (1) policemen and firemen who are covered by another retirement system or pension plan to which the City makes contributions; nor (2) any person who furnishes personal services to the City on a contractual or fee basis. The definition of "employee" shall not exclude from membership in the Retirement Plan any person in the employ of the City who was a member of the former system.

2.6. "Member" means any person who is included in the membership of the Retirement Plan.

2.7. "Service" means personal service rendered to the City by an employee of the City and shall include service rendered in any function or enterprise the City may engage in as a municipal corporation or may have heretofore acquired through purchase or eminent domain, provided, however, that in the event a function or enterprise is hereafter acquired by the City through purchase or eminent domain the rights acquired by the employees thereof under this

Retirement Plan shall be set forth and determined in a written agreement between the City, the Retirement Board, and a duly elected or appointed committee, recognized by the Board, authorized to represent said employees.

2.8. "Credited Service" means the number of years and months of service credited a member by the Retirement Board pursuant to the provisions of this Article.

2.9. "Retirant" means a member who retires with a pension payable by the Retirement Plan.

2.10. "Beneficiary" means any person, except a retirant, who is in receipt of, or who is designated to receive, a pension or other benefit payable by the Retirement Plan.

2.11. "Regular interest" means such rate or rates of interest per annum, compounded annually, as the Retirement Board shall from time to time adopt.

2.12. "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the employees' savings fund, together with regular interest therein. It shall include such other amounts as the member may deposit or have transferred to his employees' savings fund account, including regular interest thereon, as provided in this Article.

2.13. "Compensation" means a member's salary or wages paid him by the City for personal services rendered by him to the City. In case a member's compensation is not all paid in money the City Council shall, upon recommendation of the City Manager, fix the value of the portion of his compensation which is not paid in money.

2.14. "Final average compensation" means the average of the highest annual compensations paid a member for a period of 3 consecutive, but not necessarily continuous, years of

his credited service contained within his 10 years of credited service immediately preceding the date of his City employment last terminates. If he has less than 3 years of credited service, his final average compensation shall be the average of his compensations for his total period of service. For the purposes of determining benefits based on final average compensation, any compensation in excess of the limitations established by Section 401 (a) (17) of the Internal Revenue Code (including applicable adjustments), shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the plan as in effect on July 1, 1993. For this purpose an eligible employee is an individual who was a member of the retirement plan before the first plan year beginning after December 31, 1995.

2.15. "Final compensation" means a member's annual rate of compensation at the time his City employment last terminates.

2.16. "Retirement" means a member's withdrawal from City employment with a pension payable by the Retirement Plan.

2.17. "Pension" means an annual amount payable by the Retirement Plan, in equal monthly installments, throughout the future life of a person, or for a temporary period, as provided in this Article.

2.18. "Pension reserve" means the present value of all payments to be made on account of any pension, and shall be computed upon the basis of such tables of experience, and regular interest, as the Retirement Board shall from time to time adopt.

2.19. "Former system" means the Phoenix City Employees' Retirement System, created and established under Chapter XXIV of the Charter of the City of Phoenix, and repealed December 29, 1953.

2.20. "*Workmen's compensation period*" means the period a person is in receipt of monthly payments of workmen's compensation on account of a member's disability or death arising out of and in the course of his City employment. If he is paid a single sum in lieu of future workmen's compensation his "workmen's compensation period" shall be the sum of (1) the period, if any, he was paid monthly payments of workmen's compensation, plus (2) the period arrived at by dividing the said single sum by such monthly payment award.

2.21. "*Nominee*" means a partnership selected and authorized by a resolution of the Retirement Board to perform certain duties in connection with the buying, selling, holding and registration of securities on behalf of the board.

2.22. "*Tier 1 Member*" means: (A) any member hired into a position of employment with the City before July 1, 2013; and (B) any member hired into a position of employment with the City on or after July 1, 2013 who prior to July 1, 2011 participated in the Arizona State Retirement System established pursuant to Title 38, Chapter 5, Articles 1, 2 and 2.1 of the Arizona Revised Statutes ("ASRS"), and is either an active member or an inactive member of the ASRS as defined by Title 38, Chapter 5, Article 2, Section 38-711 of the Arizona Revised Statutes at the time of hire by the City. Additionally, if a member is hired into a position of employment with the City on or after July 1, 2013, but was previously employed with the City prior to July 1, 2013, and the member is not eligible to be a Tier 1 Member under the terms of the preceding sentence, the member shall be a Tier 1 Member only if the member did not withdraw his or her accumulated contributions from the retirement plan as provided for in Section 26 prior to his or her most recent date of hire with the City.

2.23. "*Tier 2 Member*" means any member hired into a position of employment with the City on or after July 1, 2013 who is not a Tier 1 Member.

(Election of 11-13-1973; election of 10-3-1995; election of 3-12-2013, eff. 6-17-2013)

### **Sec. 3. Retirement plan continued.**

3.1. The City of Phoenix Employees' Retirement Plan, heretofore created and established effective December 31, 1953, is hereby continued to provide for the retirement of employees of the City who become superannuated on account of age or total and permanent disability; to provide pensions to members and their eligible dependents; to provide that contributions be made to the Plan by the members and the City; and to provide for the administration of the Plan.

### **Sec. 4. Retirement Board.**

4.1. The authority and responsibility for the administration, management and operation of the Retirement Plan and for construing and carrying into effect the provisions of this Article, except as otherwise provided in this Article, are vested in a Retirement Board.

4.2. The Retirement Board shall consist of (9) Board Members as follows:

- (a) Three employee board members, who all members of the Retirement Plan, each of whom shall have at least 10 years of credited service, to be elected by the members of the Plan for 3 year terms expiring after December 31, 1945. The elections shall be held under such rules and regulations as the Retirement Board shall from time to time adopt.

- (b) Four ex-officio Board members consisting of the City Manager, City Treasurer, the Finance Director and Urban Manager or Department head to be selected by the City Manager. The City Manager shall have the right to delegate his responsibilities and powers as ex-officio Board Member to an employee who is a member of the Plan.
- (c) A citizen Board Member, who is a resident of but not employed by the City, or receiving benefits from the Retirement Plan, who shall have at least five years experience in a responsible position with a private or public pension plan, to be elected by the other Board Members to a three-year term that is concurrent with the term of the elected employee members of the Retirement Board.
- (d) One member who shall be a retired member to be elected by the employee Board members for a three-year term that is concurrent with the term of the elected employee members of the Retirement Board.

4.3. Upon the expiration of any term of employee Board member or citizen Board member a successor shall be elected for a term of three years. The office of Board member shall be deemed to be vacated by a Board member if prior to the expiration of his term he resigns from the Board, or dies, or leaves the employ of the City. In the event a vacancy occurs in the office of employee Board member, the vacancy shall be filled within 90 days after the date of the vacancy, for the unexpired portion of the term, by a member selected by the two remaining employee Board members and the citizen Board member. If a vacancy occurs in the office of a citizen Board member the vacancy shall be filled within 90 days after the date of the vacancy, for the unexpired por-

tion of the term, in the same manner as the office was previously filled. If a vacancy occurs in the office of retired Board member the vacancy shall be filled within 90 days after date of vacancy, for the unexpired portion of the term, in the same manner as the office was previously filled.

4.4. Each Board member shall serve without remuneration or compensation whatsoever.

4.5. Within 10 days after his election or appointment a Board member shall take the oath prescribed for City officials and shall subscribe to and file same with the City Clerk. (Election of 11-1-1983)

## **Sec. 5. Retirement plan officers.**

5.1. The Retirement Board shall elect from its own number a chairman and a vice-chairman.

5.2. The Retirement Board shall appoint an executive secretary who shall not be a Board member. His appointment shall be made in accordance with civil service rules and he shall have a civil service status of a full time classified employee. He shall perform such duties as are required of him in this Article and such other duties as the Board may from time to time prescribe.

5.3. The City Attorney shall be the legal advisor to the Retirement Board.

5.4. The City Treasurer shall be Treasurer of the Retirement Plan. The Treasurer shall be custodian of the assets of the Retirement Plan except as to such assets as the Retirement Board may from time to time place in the custody of an investment fiduciary.

5.5. *Disability Assessment Committee.* The Disability Assessment Committee shall consist of five members as follows:

- (a) Two ex-officio members consisting of the personnel Safety Administrator and the Executive secretary to the Retirement Board.
- (b) Two employee members, who are members of the Retirement Plan, each of whom shall have at least 5 years of credited service, to be nominated by the Disability Assessment Committee and approved by the Retirement Board.
- (c) A citizen member who is a resident of Maricopa County and not employed by the City or receiving benefits from the Retirement Plan, who shall have at least 5 years experience in a responsible position in the health care field, to be nominated by the Disability Assessment Committee and approved by the Retirement Board.

The implementation of this Section 5.5, the length of the employee and citizen member terms, the effective date of said terms, and the establishment of policy and procedure of the Disability Assessment Committee shall be vested in the Retirement Board.

5.6. The Retirement Board shall appoint an actuary who shall be its technical advisor on matters regarding the operation of the Retirement Plan. He shall perform such other duties as are required of him in this Article.

5.7. The Retirement Board may employ investment counsel and such other services as it shall from time to time deem necessary in the proper operation of the Retirement Plan.  
(Election of 10-6-1987)

#### **Sec. 6. Surety bonds.**

6.1. The Retirement Board may require that a surety bond for the faithful performance of duty be furnished by any Board member and

any officer of the Retirement Plan. The surety bonds shall be in such amounts as the Board shall from time to time determine and shall be subject to the approval of the City Manager and the City Attorney.

#### **Sec. 7. Records.**

7.1. The executive secretary shall keep such data as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement Plan; and for determining benefits to which retirants, and beneficiaries are entitled.

#### **Sec. 8. Board meetings.**

8.1. The Retirement Board shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings, which shall be open to public inspection. All meetings of the Board shall be public.

8.2. Five Board members, of which at least two are not ex-officio members, shall constitute a quorum at any meeting of the Retirement Board. Each attending Board member shall be entitled to one vote on each question before the Board and at least three concurring votes shall be necessary for a decision by the Board at any of its meetings.

(Election of 11-1-1983)

#### **Sec. 9. Annual report.**

9.1. The Retirement Board shall publish annually a report, certified to by a certified public accountant, showing the fiscal transactions of the Retirement Plan for the preceding fiscal year, and balance sheet of the Plan as of the preceding June 30.

**Sec. 10. Adoption of experience tables and regular interest.**

10.1. The Retirement Board shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the operation of the Retirement Plan and for an actuarial valuation of its assets and liabilities.

**Sec. 11. Annual valuations.**

11.1. The actuary shall annually make an actuarial valuation of the assets and liabilities of the Retirement Plan.

**Sec. 12. Membership.**

12.1. Any person who becomes an employee as defined in this Article, shall become a member of the Retirement Plan beginning with the date of his first employment by the City.

12.2. All persons who are employees, as defined in this Article, shall become members of the Retirement Plan.

12.3. In any case of doubt as to who is a member of the Retirement Plan the Retirement Board shall decide the question.

**Sec. 13. Membership terminates.**

13.1. Should any member leave City employment, for any reason except his retirement or death, he shall thereupon cease to be a member and his credited service in force at that time shall be forfeited by him except as otherwise provided in Section 15 or Section 20 of this Article. In the event he again becomes an employee of the City he shall again become a member. His credited service or a portion thereof last forfeited by him shall be restored to

his credit; provided he returns to the employees' savings fund the amount, he withdrew therefrom or a portion thereof equal to the service sought to be credited together with regular interest from the date of withdrawal to the date of repayment. Payment of a portion of withdrawn contributions plus interest will restore that portion of credited service to the employee's account pursuant to policies established by the retirement board. Credited service shall not be restored to a member until he has returned to the employees' savings fund the full amount, including interest, herein before required of him in this section. In the event a member becomes a retirant or dies he shall thereupon cease to be a member.

(Election of 11-13-1973; election of 9-7-1999; election of 9-9-2003, eff. 10-1-2003)

**Sec. 14. Credited service.**

14.1. The Retirement Board shall fix and determine by appropriate rules and regulations, consistent with the provisions of this Article, the amount of service to be credited any member; provided, that in no case shall less than 10 days of service rendered by a member in any calendar month be credited him as a month of service, nor shall less than 6 months of service rendered in any calendar year be credited as a year of service, nor shall more than one year of service be credited any member for all service rendered him in any calendar year. Additionally, for all Tier 2 Members, in no case shall a month of service be credited to such a member unless the member has rendered at least 20 days of service in the calendar month at issue.

14.2. Service rendered prior to December 29, 1953 shall be credited a member only if he deposits in the employees' savings fund of this Retirement Plan, by transfer or otherwise, less his share of accrued social security taxes:

- (a) The amount of accumulated contributions standing to his credit in the annuity savings fund of the former system at December 29, 1953; said deposit to be made on or prior to July 1, 1954; and
- (b) All amounts of accumulated contributions withdrawn by him from the annuity savings fund of the former system and not returned thereto; said deposit to be made on or prior to July 1, 1955; and
- (c) The aggregate amount of contributions the said member would have made to the annuity savings fund of the former system for the period he was an employee after January 1, 1947 and prior to December 29, 1953 if he was not a member of the former system; said deposit to be made in a manner determined by the Retirement Board.

14.3. Service rendered prior to December 29, 1953 by a member who did not make a deposit as provided in Section 14.2 shall be credited a member as non-contributory service for the exclusive purpose of meeting the service requirement specified in Section 17.2 provided (1) the member remains in continuous employment by the City from December 29, 1953 to the date of his retirement, and (2) the member has attained age 55 years.

14.4. A member shall be granted unused sick leave credited service for the period of unused sick leave standing to the member's credit at time of retirement, death or termination of City employment. Unused sick leave credited service may be used only as credited service under the provisions of Section 17, Section 18, Section 20, Section 21 and Section 25 and further as provided in Section 19.1(a).

14.5. In the event a policeman or fireman employed by the City becomes a member of the Retirement Plan the service rendered by him in

the employ of the police or fire department of the City may be credited him, pursuant to the provisions of this Article, under such conditions as the Retirement Board may from time to time determine; which shall include, but not be limited to, the following:

- (a) He transfers to the employees' savings fund the aggregate amount of contributions made by him to the retirement system or pension plan covering the City's policemen and/or firemen, together with interest additions, if any; and
- (b) In no case shall service credit be given by the Retirement Board for any period for which he is entitled or becomes entitled to a benefit payable by such retirement system or pension plan for the City's policemen and/or firemen.

14.6. In any case of doubt as to the amount of service to be credited a member of the Retirement Board shall have final power to determine the amount.

(Election of 11-13-1973; election of 10-6-1987; election of 3-12-2013, eff. 6-17-2013)

## **Sec. 15. Military service credit.**

15.1. An employee who while employed by the City entered any armed service of the United States, or a member who entered or enters any armed service of the United States, and who has been or shall be on active duty during time of war or period of compulsory military service shall have such armed service credited him as City service in the same manner as if he had served the City uninterrupted; provided, that (1) he shall have been or shall be re-employed by the City as an employee within one year from and after termination of such armed service actually required of him, (2) he returned to the employees' savings fund the amount, if any, he withdrew therefrom at the

time he entered or while in such armed service, together with regular interest from the date of withdrawal to the date of repayment, and (3) in no case shall more than 5 years of City service be credited any member for all such armed service rendered by him. In any case of doubt as to the period of service to be so credited any member the Retirement Board shall have final power to determine such period. During the period of such armed service and until his re-employment by the City his contributions to the Retirement Plan shall be suspended and his balance in the employees' savings fund shall be accumulated at regular interest.

#### **Sec. 16. Crediting service.**

16.1. The Retirement Board shall credit each member with the service to which he is entitled pursuant to the provisions of this Article.

#### **Sec. 17. Voluntary retirement.**

17.1. Any member who has attained or attains age 60 years and has 10 or more years of credited service or attains age 62 years and has 5 or more years of credited service may retire upon his written application on filed with the Retirement Board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement he shall receive a pension provided in Section 19.1.

17.2. Any member of the former system who has acquired or acquires 25 or more years of credited service pursuant to the provisions of this Article, may retire prior to his attainment of age 60 years upon his written application filed with the Retirement Board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing

thereof, he desires to be retired. If the member of the former system has attained age 55 years he may use both credited service and non-contributory service for the exclusive purpose of satisfying the 25 years required of the preceding service. Upon his retirement he shall receive a pension provided in Section 19.1.

17.3. Any Tier 1 Member whose age and years of service, when added, equals 80 or more may retire upon the member's written application filed with the Retirement Board setting forth the date the member desires to be retired. Any Tier 2 Member whose age and years of service, when added, equals 87 or more may retire upon the member's written application filed with the Retirement Board setting forth the date the member desires to be retired. Upon retirement, the member shall be paid the pension provided in Section 19.1.

(Election of 11-13-1975; election of 11-1-1983; election of 10-6-1987; election of 10-3-1995; election of 3-12-2013, eff. 6-17-2013)

#### **Sec. 18. Reserved.**

**Editor's note**—An election held September 9, 2003, repealed this Charter Section 18 in its entirety. Formerly, said section pertained to normal retirement and derived from an election of November 13, 1973. It should be noted that the repeal of this section shall take effect October 1, 2003.

#### **Sec. 19. Pension.**

19.1. The amount of a member's straight life pension, payable upon retirement as provided in this Article, shall be calculated as follows:

- (a) A Tier 1 Member's straight life pension, payable upon retirement as provided in this article, shall be the greater of the sum of subsections (i), (ii), and (iii) below, or the amount set forth in subsection (iv)(1) or (iv)(2) below.

- (i) 2.0 percent of the member's final average compensation multiplied by the sum of the member's credited service, subject to a maximum of 32.5 years, plus the member's unused sick leave credited service; and
  - (ii) 1.0 percent of the member's final average compensation multiplied by the portion, if any, of the member's credited service which is in excess of 32.5 years, subject to a maximum of 3 years; and
  - (iii) 0.5 percent of the member's final average compensation multiplied by the portion, if any, of the member's credited service which is in excess of 35.5 years;
  - (iv) (1) or \$500.00 per month if member has 15 or more years of credited service, or  
(2) \$250.00 per month if member has less than 15 years of credited service.
  - (v) Unused sick leave shall not be included as credited service for computation of years of service under foregoing subsections 19.1(a)(ii), 19.1(a)(iii), 19.1(a)(iv), and Tier 2 Members shall have the portion of their straight life pension attributable to unused sick leave credited service calculated in accordance with subsection 19.1(a)(i) above.
- (b) A Tier 2 Member's straight life pension, payable upon retirement as provided in this Article, shall be calculated as provided in subsections (i), (ii), (iii) and (iv) below, but without including unused sick leave credited service in the calculation:
- (i) If the member has less than 20 years of credited service, 2.1 percent of the member's final average compensation multiplied by the sum of the member's credited service; or
  - (ii) If the member has 20 or more years of credited service, but less than 25 years of credited service, 2.15 percent of the member's final average compensation multiplied by the sum of the member's credited service; or
  - (iii) If the member has 25 or more years of credited service, but less than 30 years of credited service, 2.20 percent of the member's final average compensation multiplied by the sum of the member's credited service; or
  - (iv) If the member has 30 or more years of credited service, 2.30 percent of the member's final average compensation multiplied by the sum of the member's credited service.
- (c) In addition to the amount specified in subsections (b)(i), (b)(ii), (b)(iii) and (b)(iv) above, an amount will be added to each Tier 2 Member's straight life pension, payable upon retirement as provided in this Article, as specified in subsection 19.1(a)(v) above.
- A member may elect, at any time prior to the date of the first payment of the member's pension is made, to be paid the pension under an optional form of payment provided in Section 24.1 in lieu of the straight life form of payment.

19.2. In the event a retirant dies before the aggregate amount of straight life pension payments received by him equals the accumulated contributions standing to his credit in the employee's savings fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of pension payments received by him shall be paid from the pension reserve fund to such person or persons as he shall have nominated by written designation duly executed and filed with the Retirement Board. In the event there be no such designated person surviving the retirant such difference, if any, shall be paid to his legal representative. No benefits shall be paid under this section on account of death of a retirant if he was receiving a pension under Options A Standard, A Pop-up, B Standard, B Pop-up, or C provided in Section 24.1.

19.3. The amount of each pension having an effective date prior to January 2, 1988 shall be redetermined and the redetermined amount shall be the basis of pension payments from and after June 1, 1988. The amount of the redetermined pension provided in this section, shall be equal to the base amount of the pension multiplied by 80 percent of the average of the monthly consumer price indexes for calendar year 1987 and divided by the average of the monthly consumer price indexes for the calendar year containing the effective date of the pension. The base amount of a pension is the amount of pension that would have been paid for the month of June 1988 in the absence of all prior redeterminations. The effective date of a survival pension being paid the beneficiary of a deceased retirant who elected an optional form of payment provided in Section 24.1 shall be the effective date of the retirant's pension. Consumer Price Index means the Consumer Price for Urban Wage Earners as published by the United States Department of Labor. The minimum amount of redetermined pension shall be

the greater of 101 percent of the amount of pension that would be payable for the month of June 1988 in the absence of the redetermination provided by this section and \$1,200 annually. Additional pension amounts payable pursuant to the redetermination provided by this section shall be financed in part by the positive difference between the Pension Reserve Fund and retired life liabilities which were effective prior to the redetermination.

19.4. A normal, voluntary or disability pension shall commence the first day of the month following retirement. A survivor pension shall commence the first day of the month following the date of the death resulting in the pension.

19.5. Termination of payment of a pension shall occur at the end of the month in which the event causing termination occurs. Payment shall be made for the full month of termination.

19.6. *Tax equity adjustment.* Any member of the City of Phoenix Employees' Retirement Plan who has retired prior to January 1, 1989, shall receive a 3% increase in benefits as a tax equity adjustment effective as of January 1, 1989. Any member retiring between January 1, 1989 and January 1, 1990, shall receive a 3% increase in benefits as a tax equity adjustment effective upon their date of retirement.

19.7.(a) Effective January 2, 2000, notwithstanding any other provision of the Charter, all retirees and surviving option beneficiaries pursuant to Sections 24 and 25.2(a), with 15 or more years of credited service shall receive a pension of at least \$500.00 per month.

(b) Effective January 2, 2000, notwithstanding any other provision of the Charter, all retirees and surviving option beneficiaries pursuant to Sections 24 and 25.2(a),

with less than 15 years of credited service shall receive a pension of at least \$250.00 per month.

- (c) Effective for retirements on or after July 1, 2013, this Section 19.7 shall apply only to Tier 1 Members and their beneficiaries.

(Election of 11-13-1973; election of 10-6-1987; election of 10-3-1989; election of 9-7-1999; election of 3-12-2013, eff. 6-17-2013)

## **Sec. 20. Deferred pension.**

20.1. Should any member who has five or more years of credited service leave City employment for any reason except his retirement or death he shall be entitled to a pension as provided in Section 19.1 as that section was in effect at the time he left City employment. His pension shall begin the first day of the calendar month next following the month in which his written application for same is filed with the Retirement Board on or after his attainment of age 62 years. In the event he withdraws his accumulated contributions from the Employees' Savings Fund, he shall thereupon forfeit his rights to a deferred pension as provided in this section. Except as otherwise provided in this Article, he shall not receive service credit for the period of his absence from City employment and his balance in the Employees' Savings Fund shall accumulate at regular interest. (Election of 11-1-1983)

## **Sec. 21. Disability retirement.**

21.1. *Entitlement to Benefits.* Any member with ten (10) or more years of credited service who experiences total and permanent disability resulting in the inability to perform in the service of the City and/or in a termination of employment by the City shall be entitled to a benefit commencing at Disability Retirement

Date computed in the manner set forth in Section 19.1 of this Plan.

21.2. *Waiver of Service Requirement.* The ten (10) or more years of service requirement contained in Section 21.1 shall be waived in the case of a member whose total and permanent disability is found by the Disability Assessment Committee to be the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the City.

21.3. *Disability Retirement Date.* Shall mean the date upon the member's written application or the date upon which the application is approved by the disability assessment committee or the retirement board or upon the application of his department head, filed with the Executive Secretary or, if later, the date upon which a member has exhausted any sick leave, vacation time and compensation time standing to the member's credit.

21.4. *Minimum Benefit.* In the event that a member has less than seven (7) years and six (6) months of credited service in determining his benefit in the manner set forth in Section 19.1 of this Plan, his credited service shall be increased to seven (7) years and six (6) months.

21.5. *Benefit Limitation.* The monthly benefit payable to a disability retiree during his workmen's compensation period shall not exceed the difference between his final monthly compensation as determined at the date of his disability and his monthly workmen's compensation award, if any.

21.6. *Termination of Workmen's Compensation.* Upon termination of a disability retiree's workmen's compensation period, if any, he shall be given credited service for the said period and his disability benefit shall be recomputed in the manner set forth in Section

19.1 of this Plan to include such additional credited service.

(Election of 10-6-1987; election of 9-9-2003, eff. 10-1-2003)

**Sec. 22. Form and duration of disability benefit payments.**

22.1. Alternative modes of benefit payments are available pursuant to Section 24.1. Unless the member files a timely election in writing to

receive benefits by an alternative mode, the following shall prevail with respect to benefits payable pursuant to Section 21:

- (a) Members who are unmarried as of the date on which benefits first become payable pursuant to Section 21 shall receive payments in the form of a straight life pension.
- (b) Participants who are married as of the date as of which benefits first become payable pursuant to Section 21 shall receive benefits in the form of Option A.
- (c) Except to the extent that continued benefits may be payable by reason of the provisions of Option A or any alternative mode of benefit payment in force, benefits payable pursuant to this Section 22 shall be:
  - (1) Suspended in the event of the member's recovery from total and permanent disability with benefits to resume as retirement benefits at the later of
    - (i) Voluntary or Normal Retirement, or
    - (ii) The date of the actual retirement unless the member again suffers total and permanent disability prior to Voluntary or Normal Retirement (in which case benefits shall resume upon recurrence of total and permanent disability);
  - (2) Terminated in the event of the member's death.

(Election of 10-6-1987)

### **Sec. 23. Determination of disability.**

*23.1. Determination of Total and Permanent Disability.* The existence or continuance of a

condition of total and permanent disability shall be determined by the Disability Assessment Committee on the basis of such medical evidence as the Disability Assessment Committee deems necessary by applying such criteria in making medical determinations in a uniform, consistent and non-discriminatory manner to all members in similar circumstances. Each person alleging a condition of total and permanent disability or the continuance of such condition shall be required to undergo any medical examinations required by the Disability Assessment Committee. Each person alleging the continuance of total and permanent disability shall not be required to undergo medical examinations more frequently than twice annually, and further provided that all such examinations shall be at the expense of the Plan. Any person claiming total and permanent disability or the continuance of such condition, and refusing to submit to any medical examination required by the Disability Assessment Committee, or refusing to authorize the release to the Disability Assessment Committee, of any medical information with respect to such condition, shall be presumed not to suffer total and permanent disability, for the purposes of this Plan.

Failure to qualify for disability benefits under this Plan shall not adversely affect any right the member may otherwise have to benefits under any other provision of this Plan.

*23.2. Appeals of Denied Claims for Disability Benefits.* In the event that any claim for benefits is denied in whole or in part, the member whose claim has been so denied shall be notified of such denial in writing by the Executive Secretary. The notice advising of the denial shall specify the reason or reasons for denial, make specific reference to pertinent Plan provisions, describe any additional material or information necessary for the claimant to perfect the claim (explaining why such material

or information is needed), and shall advise the member of the procedure for the appeal of such denial. All appeals shall be made by the following procedure:

- (a) The member whose claim has been denied shall file with the Executive Secretary a notice of desire to appeal the denial. Such notice shall be filed within sixty (60) days of notification by the Executive Secretary of claim denial, shall be made in writing, and shall set forth all of the facts upon which the appeal is based. Appeals not timely filed shall be barred.
- (b) The Executive Secretary shall, within thirty (30) days, of receipt of the member's notice of appeal, establish a hearing date on which the member may make an oral presentation to the Retirement Board in support of his appeal. The member shall be given not less than ten (10) days notice of the date set forth for the hearing.
- (c) The Retirement Board shall consider the merits of the claimant's written and oral presentations, the merits of any facts or evidence in support of the denial of benefits, and such other facts and circumstances as the Retirement board shall deem relevant. If the claimant elects not to make an oral presentation, such election shall not be deemed adverse to his interest, and the Retirement Board shall proceed as set forth below as though an oral presentation of the contents of the claimant's written presentations had been made.
- (d) The Retirement Board shall render a determination upon the appealed claim

which determination shall be accompanied by a written statement as to the reasons therefore.

(Election of 10-6-1978; election of 10-6-1987)

**Sec. 24. Pension options.**

- 24.1. (a) Prior to the date the first payment of his pension is made, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life and terminating at his death, or he may elect to receive the actuarial equivalent, computed as of the date of his retirement, of his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of Option A Standard, A Pop-up, B Standard, B Pop-up, or C set forth below:
  - (b) The normal option for members legally married at the time of retirement shall be Option A Standard (100% survivor). The normal option for members unmarried at the time of retirement shall be Straight Life.
  - (c) If a member, legally married at the time of retirement, selects an option other than Option A Standard (100% survivor), the spouse shall consent to the change at the same time. Such consent shall be in writing on the forms supplied by the Retirement Systems Office.
  - (d) Option A Standard—100 Percent Survivor Pension: Under Option A Standard upon the death of the retirant his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and

filed with the Retirement Board prior to the date the first payment of his pension is made.

- (e) Option A Pop-up—100 Percent Survivor Pension: Under Option A Pop-up upon the death of the retirant his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Retirement Board prior to the date the first payment of his pension is made. Should the person nominated die before the retirant, the pension paid to the retirant shall be increased to equal a straight life pension for the remainder of his life.
- (f) Option B Standard—50 Percent Survivor Pension: Under Option B Standard upon the death of the retirant, one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Retirement Board prior to the date the first payment of his pension is made.
- (g) Option B Pop-up—50 Percent Survivor Pension: Under Option B Pop-up upon the death of the retirant, one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Retirement Board prior to the date the first payment of his pension is made. Should the person nominated die before the retirant, the pension paid

the retirant shall be increased to equal a straight life pension for the remainder of his life.

- (h) Option C—Pension 10 Years Certain and Life Thereafter: Under Option C the retirant shall receive a reduced pension payable throughout his life with the provision that if he dies before he has received 120 monthly pension payments the payments shall be continued for the remainder of the period of 120 months to such person or persons, in equal shares, as the retirant shall have nominated by written designation duly executed and filed with the Retirement Board. If there be no such designated person surviving the retirant such payments shall be continued for the remainder of the period of 120 months and paid to the estate of the survivor of the retirant and his last surviving designated beneficiary.

(Election of 10-3-1989)

#### **Sec. 25. Survivor pensions.**

25.1. In the event a member with less than 10 years of credited service dies while in the employ of the City his credited service shall be increased to 10 years if the Retirement Board finds his death (1) is the result of causes arising out of and in the course of his employment by the City, and (2) is compensable under the Workmen's Compensation Act of the State of Arizona.

25.2. In the event a member with 10 or more years of credited service dies while in the employ of the City the applicable benefits provided in paragraphs (a), (b) and (c) of this Section shall be paid, subject to Sections 25.3 and 25.4.

- (a) If the deceased member leaves a widow or a widower, the widow or widower

shall be paid a pension computed in the same manner in all respects as if the member had (1) retired the day preceding the date of his death, notwithstanding that he might not have attained age 60 years, (2) elected the normal option in Section 24.1 that provides a widow or widower pension, and (3) nominated his widow or widower as beneficiary. Upon the death of the widow or widower his pension shall terminate.

- (b) If the deceased member leaves an unmarried child or children under age 18 years, each such child shall receive a pension of \$200 per month. Upon a child's adoption, marriage, death, or attainment of age 18 years his pension shall terminate. It is also provided that any child pension in effect as of January 1, 2000 shall be increased to \$200 per month.
- (c) If the deceased member leaves neither a widow or widower, nor children, eligible to pensions under paragraphs (a) or (b) of this Section, but he leaves a parent or parents whom the Retirement Board finds to be dependent upon him for at least 50 percent of their support due to absence of earning power because of physical or mental disability, each such parent shall receive a pension of an equal share of \$720 per annum. Upon a parent's remarriage or death his pension shall terminate.

25.3 During the workmen's compensation period arising on account of the death of a member the total of the pensions provided in Section 25.2 payable in a year shall not exceed the difference between the member's final compensation and the workmen's compensation, if any, converted to an annual basis. **\*See editor's note at the end of this section.**

25.4 In the event the pensions, provided in Section 25.2, payable on account of the death of a member are terminated before there has been paid to the survivor beneficiary or beneficiaries an aggregate amount equal to the member's accumulated contributions standing to his credit in the employees' saving fund at the time of his death the difference between his said accumulated contributions and the said aggregate amount of pensions paid shall be paid in accordance with such rules and regulations as the Retirement Board shall from time to time adopt. **\*See editor's note at the end of this section.**

(Election of 10-3-1989; election of 9-7-1999)

**Editor's note**—At the request of The Office of the City Attorney, Subsections 25.3 and 25.4 were added to Section 25. These Subsections had been inadvertently omitted from codification after the Election of November 13, 1973.

## **Sec. 26. Return of accumulated contributions.**

26.1. Any member who leaves the employ of the City before he has satisfied the age and service requirements for retirement provided in Section 17.1, for any reason except his death or retirement, he shall be paid his accumulated contributions standing to his credit in the employees' savings fund upon his request in writing filed with the Retirement Board.

26.2. Should any member die and leave no beneficiary entitled to a pension provided for in this Article, his accumulated contributions standing to his credit in the employees savings fund at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Retirement Board. If there be no such designated person or persons surviving the said member, then his said accumulated contributions shall be paid to his legal representative.

26.3. Refunds of accumulated contributions as provided in this Article, may be made in installments according to such rules and regulations as the Retirement Board may from time to time adopt.

**Sec. 27. Employees' savings fund.**

27.1. (a) The employees' savings fund is hereby continued. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members and from which shall be made transfers and refunds of accumulated contributions as provided in this Article.

(b) The contributions of a Tier 1 Member to the Retirement Plan shall be 5 percent of his annual compensation as reflected in Section 28.1(b). The contributions of a Tier 2 Member to the Retirement Plan shall be a percentage of his annual compensation determined pursuant to Section 28.1(b). The officer or officers responsible for preparing the payroll shall cause the contributions provided herein to be deducted from the compensation of each member on each and every payroll, for each and every payroll period so long as he remains a member of the Retirement Plan. When deducted each of said amounts shall be paid to the Plan and shall be credited to the individual account in the employees' savings fund of the member from whose compensations said deductions were made.

(c) The contributions provided in Subsection (b) above shall be made notwithstanding that the minimum compensation provided by law for any member shall be thereby changed.

Every member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him during the period covered by such payment, except as to benefits provided in this Article.

(d) In addition to the contributions hereinbefore provided in this Section, the repayment of any amounts pursuant to the provisions of Section 13.1 shall be deposited in the employees' savings fund and credited to the member's individual account. Repayments pursuant to the provisions of Section 13.1 may be made by a single contribution or by an increased rate of contribution as approved by the Retirement Board.

(e) The accumulated contributions transferred from the former system to the Retirement Plan and such other amounts as may be deposited by a member, as provided in Sections 14.2 and 14.3, shall be credited to his individual account in the employees' savings fund.

(f) The accumulated contributions of a member standing to his credit in the employees' savings fund shall be transferred to the pension reserve fund upon his retirement, or upon his death if a pension becomes payable by the Retirement Plan on account of his death. At the expiration of a period of 2 years from and after the date an employee ceases to be a member any balance of accumulated contributions standing to his credit in the employees' savings fund, unclaimed by the member or his

legal representative, shall be transferred to the income fund, except as otherwise provided in this Article.

(Election of 11-13-1973; election of 3-12-2013, eff. 6-17-2013)

**Sec. 28. Pension accumulation fund.**

28.1. (a) The pension accumulation fund is hereby continued. It shall be the fund in which shall be accumulated the contributions made by the City to the Retirement Plan, and from which shall be made transfers to the pension fund, as provided in this Section.

(b) Upon the basis of such mortality and other tables of experience, and regular interest, as the Retirement Board shall from time to time adopt the actuary shall annually compute (1) the actuarially-required pension reserves for pensions being paid retirants and beneficiaries, and (2) the actuarially-required pension reserves for service rendered and to be rendered by members. The pension reserves so computed shall include the reserves already held in (and to be deposited in) the employees' savings fund and the pension accumulation fund for purposes of the calculation of the annual contributions determined under this section. The actuarially-required pension reserves shall be financed jointly by the City and members by annual contributions determined by the Retirement Board in accordance with the provisions of paragraphs (1) and (2) below:

(1) The total required annual contribution to the Retirement Plan for members' current and accrued service, as well as for pensions being

paid retirants and beneficiaries, shall be calculated as follows:

(i) An amount which if paid annually during the members' future service is expected to be sufficient to provide the actuarially-required pension reserves at the time of their retirements for the portions of the pensions to be paid them based upon their future service; plus

(ii) An amount which if paid annually over a period of years, to be determined by the Retirement Board, will amortize at regular interest the actuarially-required pension reserves (to the extent not funded by current assets), if any, for the accrued service portions of the pension to be paid members upon their retirements and pensions being paid retirants and beneficiaries.

(2) Once calculated, the total required annual contribution to the Retirement Plan described in subparagraph (b)(1) above will be stated in the form of a percentage of members' projected annual compensations for the applicable fiscal year (the "projected percentage"). The total required annual contribution will then be paid to the Retirement Plan by both the City and members as follows:

(i) Each Tier 1 Member will pay to the Retirement Plan 5 per-

- cent of his annual compensation.
- (ii) Each Tier 2 Member will pay to the retirement plan a percentage of his annual compensation equal to one-half of the projected percentage.
  - (iii) The City will pay to the Retirement Plan (A) one-half of the projected percentage of the aggregate compensation of all Tier 2 Members, plus (B) the projected percentage less 5 percent (but not less than zero) of the aggregate compensation of all Tier 1 Members.
  - (iv) If the projected percentage is less than 5 percent, each Tier 1 Member will still pay to the Retirement Plan 5 percent of his annual compensation as specified in subparagraph (b)(2)(i) above, however, the projected percentage shall be adjusted (but shall not be less than zero) so that 5 percent of the projected aggregate compensation of all Tier 1 Members plus the projected percentage times the projected aggregate compensation of all Tier 2 Members equals the total required annual contribution.
- (c) The Retirement Board shall, in each fiscal year, certify to the City Council the contributions determined in Subsection (b) of this Section and the City Council shall appropriate and the City and members shall pay, within the next fiscal year, the contributions so certified. When paid the contributions from the City shall be credited to the pension accumulation fund. When paid the contributions from members shall be credited to the individual account in the employees' savings fund of the member from whose compensation said deductions were made in accordance with Section 27.
- (d) Should the balance in the pension reserve fund be insufficient to cover the pension reserve fund liabilities the amount of such insufficiency shall be transferred from the pension accumulation fund to the pension reserve fund.
  - (e) Upon the retirement of a member, or upon the death of a member if a pension becomes payable on account of his death, the pension reserve for the pension payable, less his balance in the employees' savings fund at the time of his retirement or death, shall be transferred from the pension accumulation fund to the pension reserve fund.
  - (f) In any fiscal year the City may elect to contribute amounts to the Retirement Plan in excess of the contributions to the pension accumulation fund required pursuant to Section 28.1(b). If the City exercises its right to make additional contributions to the pension accumulation fund pursuant to this subparagraph (f), then the amounts of such additional contributions will not offset or be used to reduce the amount of required contributions from members during the fiscal year in which they are made.
- (Election of 3-12-2013, eff. 6-17-2013)

**Sec. 29. Pension reserve fund.**

29.1. The pension reserve fund is hereby continued. It shall be the fund from which shall be paid all pensions payable pursuant to the provisions of this Article. In the case of a disability retiree who is returned to the employ of the City his pension reserve, computed as of the date of his return, shall be transferred from the pension reserve fund to the employees' savings fund and pension accumulation fund in the same proportion that his pension reserve, as of the date of his retirement, was transferred from the employees' savings fund and pension accumulation fund to the pension reserve fund. The amount transferred to the employees' savings fund shall be credited to his individual account therein.

**Sec. 30. Mortality reserve fund.**

30.1. The mortality reserve fund is hereby discontinued. All pensions being paid from the mortality reserve fund of the City of Phoenix Employees' Retirement Law of 1953 shall hereafter be paid from the pension reserve fund. The pension reserves for pensions being paid from the mortality reserve fund shall be transferred to the pension reserve fund. Any excess balance in the mortality reserve fund shall be transferred to the pension accumulation fund.

**Sec. 31. Income fund.**

31.1. The income fund is hereby continued. It shall be the fund to which shall be credited all interest, dividends and other income from investments of the Retirement Plan, all gifts and bequests, all unclaimed accumulated contributions as provided in this Article, and all other moneys the disposition of which is not specifically provided for in this Article. There

shall be paid or transferred from the income fund all amounts required to credit regular interest to the various funds of the Plan as provided in this Article. Whenever the Retirement Board determines that the balance in the income fund is more than sufficient to cover current charges to the fund such excess may be transferred to the other funds of the plan to cover special needs of the funds, or such excess may be used to provide contingency reserves, as the Board shall determine. Whenever the balance in the income fund is found to be insufficient to cover the charges to the fund the amount of such insufficiency shall be transferred from the pension accumulation fund to the income fund.

31.2. A member's accumulated contributions which have been transferred to the income fund, as provided in this Article, shall be paid from the income fund to such person or persons making valid claim for same approved by the Retirement Board.

**Sec. 32. Allowance of regular interest.**

32.1. At the end of each fiscal year the Retirement Board shall allow and credit regular interest to each member's account in the employees' savings fund; said interest for a member shall be computed on the mean balance in his account during the year. At the end of each fiscal year the Board shall allow and credit regular interest on the mean balances in the pension accumulation fund and the pension reserve fund. The interest so allowed and credited shall be transferred from the income fund.

**Sec. 33. Expense fund.**

33.1. The expense fund shall consist of all moneys provided by the City to pay the administration expenses of the Retirement Plan.

### Sec. 34. Fiscal management.

34.1. *General duties and powers.* The Retirement Board shall be the trustees of the assets of the Retirement Plan. The Retirement Board shall have the power to contract for (1) investment advice, (2) safekeeping of securities, (3) handling of investments, (4) clearing of transactions, and (5) such other services it deems necessary for the proper and efficient handling of the monies and investments of the Retirement Plan. It shall have the power to register or re-register the investments of the Retirement Plan in the name of the Retirement Board as trustees of the Retirement Plan or in the name of its nominee.

34.2. *Prudent investor rule.* The Retirement Board has a duty to invest and manage the assets of the Retirement Plan solely in the interests of the members and beneficiaries of the Retirement Plan, in the manner set forth in this Section 34.2.

- (a) The Retirement Board shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the Retirement Plan. In satisfying this standard, the Retirement Board shall exercise reasonable care, skill, and caution.
- (b) The Retirement Board's investment and management decisions respecting individual assets should not be evaluated in isolation, but rather must be evaluated in the context of the Retirement Plan asset portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Retirement Plan. The prudent investor rule is a measure of the anticipated effect of the Retirement Board's investment decisions on the

investment portfolio as a whole, given the facts and circumstances prevailing at the time of the investment decision or action. The prudent investor rule shall be interpreted and applied as a test of investment related conduct and not of resulting investment performance.

- (c) Among circumstances that the Retirement Board shall consider in investing and managing trust assets are such of the following as are relevant to the Retirement Plan or its members and beneficiaries:
  - (1) General economic conditions;
  - (2) The possible effect of inflation or deflation;
  - (3) The expected tax consequences of investment decisions or strategies;
  - (4) The role that each investment or course of action plays within the overall Retirement Plan portfolio;
  - (5) The expected total return from income and the appreciation of capital;
  - (6) The Retirement Plan's need for liquidity, regularity of income, and preservation or appreciation of capital; and
  - (7) The fiduciary duty to incur only reasonable and appropriate costs in relation to the assets and the purpose of the Retirement Plan.
- (d) The Retirement Board shall make a reasonable effort to verify facts relevant to the investment and management of Retirement Plan assets.
- (e) The Retirement Board may invest in any kind of property or type of investment consistent with the standards of

this Section 34.2. If the Retirement Board wishes to invest in an investment category not previously utilized by the Retirement Board for the investment of Retirement Plan assets, it may do so provided that such investment is consistent with the standards of this Section 34.2 and two-thirds of the Retirement Board authorizes the utilization of the new investment category.

34.3. *Diversification.* The Retirement Board shall diversify the investments of the Retirement Plan unless, after taking into account all relevant circumstances, the Retirement Board reasonably determines that the interests of the members and beneficiaries, as well as the goals and purposes of the Retirement Plan, are better served without diversifying.

34.4. *Application to Retirement Plan.* Sections 34.2 through 34.4 govern only Retirement Plan investment decisions or actions occurring after July 1, 2013. The Retirement Board has a duty, within a reasonable and appropriate time after July 1, 2013, to review the Retirement Plan investments and to conform the existing Retirement Plan investments to the prudent investor rule. The Retirement Board's decision to retain or dispose of an investment may be influenced properly by the investment's special relationship or value to the Retirement Plan.

34.5. *Delegations.* The Retirement Board may delegate its power to purchase or sell any of the securities and investments of the Retirement Plan to a member or committee of members of the Board.

(Election of 11-13-1973; election of 11-1-1983; election of 9-7-1999; election of 3-12-2013, eff. 6-17-2013)

### **Sec. 35. False statements.**

35.1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the Retirement Plan, in any attempt to defraud the Plan, shall be guilty of a misdemeanor and subject to a fine not exceeding \$300 or 90 days imprisonment in the City Jail, or both.

### **Sec. 36. Errors.**

36.1. In the event any change or error in the records of the Retirement Plan results in any person receiving from the Plan more or less than he would have been entitled to receive had the records been correct, the Retirement Board shall correct such error and, as far as practicable, shall adjust subsequent payments in such manner that the actuarial equivalent of the benefits to which the said person was correctly entitled shall be paid. In the event of overpayment to any person the Board may take legal action, if necessary, to recover such overpayment.

### **Sec. 37. Exemption from taxation and execution.**

37.1. The right of a person to a pension, to the return of accumulated contributions, and any other right accrued or accruing to any person under the provisions of this Article shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, except as is specifically provided in this Article. All benefits payable by the Retirement Plan and the cash and other assets of the Plan shall be exempt from all municipal taxes.

37.2. If a member or a beneficiary, excluding minors, is covered under a group insurance

or prepayment plan participated in by the City, and should he or she be permitted to and elect to continue such coverage as a retirant or beneficiary, he or she may authorize the Retirement Board to have deducted from his or her pension the payments required to continue coverage under such insurance or pre-payment plan. The City shall have the right to set-off for any claim arising from theft or embezzlement by any member, retirant or beneficiary.

(Election of 11-1-1983)

### **Sec. 38. Applicability of amendments.**

38.1. The provisions of this Article in effect at the time a member retires, or at the time a pension becomes payable on account of his death before retirement, shall be applicable as to the payment of the pension arising on account of his retirement or death, except as is otherwise specifically provided in this Article.

### **Sec. 39. Pension guarantee.**

39.1. The pension payable to a retirant whose credited service includes service rendered prior to December 29, 1953 shall be not less than the pension portion of the retirement allowance to which he would have been entitled under the former system had the former system been in effect at the time of his retirement plus an annuity which is the actuarial equivalent of his accumulated contributions standing to his credit in the employees' savings fund of this Retirement Plan at the time of his retirement without offset or deduction of social security benefits he might receive.

### **Sec. 40. Adjustment of pensions.**

40.1. All members, spouses of deceased members, beneficiaries of deceased members named pursuant to Section 24 herein, who are

receiving pensions at the time this section becomes effective shall receive an increase in benefits and pensions effective January 1, 1982 in accordance with the following:

- (a) 5% per year for each year that benefits or pensions were paid prior to December 31, 1960;
- (b) 4% per year for each year that benefits or pensions were paid from January 1, 1961 through December 31, 1964;
- (c) 2% per year for each year that benefits or pensions were paid from January 1, 1965 through December 31, 1969;
- (d) 1% per year for each year that benefits or pensions were paid from January 1, 1970 through December 31, 1981.

40.2. All retirees and surviving option beneficiaries pursuant to Sections 24 and 25.2(a) of deceased retirees named pursuant to Section 24 herein, who are receiving pensions at the time this subsection becomes effective shall receive a pension increase effective January 1, 2000 in accordance with the following:

- (a) 17.4% of pension amount as it existed on December 31, 1991, if retired prior to January 1, 1988.
- (b) 13.9% of pension amount as it existed on December 31, 1991, if retired during calendar year 1988.

(Election of 11-3-1981; election of 9-7-1999)

### **Sec. 41. Post-retirement distribution benefit for City employees.**

41.1. After the end of each fiscal year, the Retirement Board shall determine the rate of investment return earned on Retirement Plan assets during the fiscal year, based upon methods established by the Retirement Board.

41.2. At the end of each fiscal year, the Retirement Plan actuary shall determine the present value of pensions to be paid after the end of the fiscal year to retirants and pension beneficiaries, excluding minors, in receipt of pensions at the end of the fiscal year. The assumed interest rate used in the determination shall be the rate adopted by the Retirement Board for purposes of the annual actuarial valuation.

41.3. The distribution income at the end of each fiscal year shall be equal to the product of the present value of pensions determined in subsection 2 at the end of the previous fiscal year times the positive excess, if any, of the rate of investment return determined in subsection 1 exceeding the assumed rate defined in subsection 2.

41.4. The distribution amount for an individual retirant or pension beneficiary, excluding minors, shall be determined in accordance with a formula adopted by the Retirement Board. In no case shall the ratio of the distribution amount to the annual pension amount for an individual retirant or pension beneficiary, excluding minors, exceed one-half of the increase in the Consumer Price Index during the preceding calendar year, or 3% of the retirant's or beneficiary's pension, whichever is less.

41.5. The distribution amount for each retirant or beneficiary shall be payable in the form of a supplemental payment prior to the seventh month after the end of the fiscal year. If a retirant dies before receipt of the retirant's distribution amount the payment shall be made to the retirant's pension beneficiary, if any. If a pension beneficiary dies before receipt of the pension beneficiary's distribution amount, no payment shall be made.

41.6. Notwithstanding Sections 41.3 and 41.4, the ratio of distribution amount under Section 41 shall not be less than one percent, to the extent that funds are available in the Pension Equalization Reserve Fund.  
(Election of 11-1-1983; election of 10-3-1995)

**Sec. 42. Post-retirement pension benefits equalization program.**

42.1. There is hereby established the City of Phoenix Post-Retirement Pension Benefits Equalization Program (the "Program") which shall provide, but only to the extent that there are available earnings as computed pursuant to the provisions of Subsection 42.3 and 42.4 hereunder; for additional pension benefits to be paid to Eligible Persons, as provided in this Section.

42.2. For the purposes of this Section, the following definitions shall apply:

*Eligible Pension* shall mean the annual benefit, if any, payable under this Section to Eligible Persons;

*Eligible Persons* shall mean persons who, on January 1, 1992 and on any January 1 thereafter, have been receiving benefits as a retirant and/or a beneficiary, where benefit payments based on such retirant's service have been made for the thirty-six (36) consecutive months immediately prior thereto.

*Excess Earnings* mean investment earnings in excess of the amount that would have been earned had the Retirement Plan earned eight percent (8%) on assets allocated to the Pension Reserve Fund.

*Pension Equalization Reserve Fund* ("Equalization Fund") shall mean the fund created pursuant to this Section to

provide the source of payments to be made to Eligible Persons under the Program.

42.3. The Equalization Fund shall be established on January 1, 1992. The Equalization Fund shall be increased each calendar year by the Excess Earnings computed for the immediately preceding calendar year. The rate of actual investment earnings used to determine Excess Earnings is the annual average of the time weighted rates of return, reported by the Plan's investment performance monitoring service, for the immediately preceding five calendar years. The Equalization Fund shall be decreased each calendar year by the actuarial present value of the increase, if any, in pensions paid during the calendar year as the result of any adjustment made under the provisions of this Section; with such amounts being transferred to the Pension Reserve Fund; and further decreased as the result of any adjustments under Section 41 of this Article.

42.4. The Final Percentage Adjustment to each Eligible Pension payment shall be computed as follows. The Basic Percentage Adjustment shall be determined; which adjustment shall be the percentage increase, not less than zero, in the Phoenix area Consumer Price Index as determined by the Center for Business Research at Arizona State University, or if this index is not available, the Consumer Price Index of the Department of Labor. The Board shall then determine that percentage adjustment which increases the actuarial present value of pensions being paid (as reported in the last annual actuarial valuation of the Plan) by the balance in the Equalization Fund. The Final Percentage Adjustment shall be lower of the two percentages.

42.5. The final percentage adjustment, if any, as determined under Subsection 42.4, shall then be applied to each Eligible Person's

annual benefit and paid on a monthly basis, commencing in March of each year for which applicable, retroactive to January 1 of that year, and shall constitute a permanent adjustment to such pension benefit.

42.6. This Section shall be effective from and after January 1, 1992.  
(Election of 10-1-1991)

**Sec. 43. Tax qualified governmental pension plan.**

43.1. The Retirement Plan is a public pension plan, intended to constitute a tax-qualified governmental retirement plan under Sections 401(A) and 414(D) of the Internal Revenue Code of 1954, as amended (the "Code"). The assets of the Retirement Plan are held in a separate trust, exempt from taxation under Section 501(A) of the Code, for exclusive benefit of the members and beneficiaries of the Retirement Plan. The Retirement Plan Trust also is intended to constitute an independent public trust pursuant to Article XXIX of the Constitution of the State of Arizona. The City of Phoenix Employees' Retirement Law of 1953 shall be construed in a manner consistent with the tax-qualified governmental status of the Retirement Plan whenever possible.

43.2. In accordance with the obligations and requirements imposed on tax-qualified governmental pension plans under the Code, the Retirement Plan is, and shall continue to be, administered and operated in accordance with the compensation limitations set forth in Section 401(A)(17) of the Code, the contribution and benefit limitations set forth in Section 401(A)(16) and Section 415 of the Code, and the eligible rollover distribution requirements of Section 401(A)(31) of the Code. The Retirement Plan is, and shall continue to be, operated and maintained in reasonable and good faith

compliance with the required minimum distribution requirements set forth in Section 401(A)(9) of the Code. To the extent required, the provisions of Code Sections 401(A)(9), 401(A)(16), 401(A)(17) and 401(A)(31) (and the applicable treasury regulations promulgated thereunder) are incorporated herein by this reference and the Retirement Board is authorized to adopt any and all policies necessary for proper implementation of the aforementioned code requirements.

43.3. Section 10.1 of the Retirement Plan authorizes the Retirement Board to adopt actuarial assumptions appropriate and necessary for the administration of the Retirement Plan. For purposes of compliance with Section 401(A)(25) of the Code, the actuarial assumptions adopted by the Retirement Board shall be set forth in an "Addendum to Section 10.1 of the City of Phoenix Employees' Retirement Law of 1953" which shall be updated by the Board from time to time as necessary and maintained in the offices of the Executive Secretary to the Retirement Board.

43.4. Section 27 of the Retirement Plan requires mandatory contributions to the Retirement Plan from each member. The mandatory member contributions are deducted from the eligible compensation of each member on a pre-tax basis and deposited into the Retirement Plan Trust through an employer pick-up arrangement structured and operated in accordance with Section 414(H) of the Code and the terms of the private letter ruling issued to the Retirement Plan by the Internal Revenue Service on April 18, 1986.

(Election of 3-12-2013, eff. 6-17-2013)

## ARTICLE III. TRANSFER OF ASSETS AND LIABILITIES\*

### [Sec. 1.]. Transfer of assets.

1.1. The assets credited to the Chapter XXIV employees trust fund, created in Article I of this Chapter, shall be transferred to the employees savings fund, created in Article II of this Chapter.

1.2. The assets credited to the Chapter XXIV retirement trust fund, created in Article I of this Chapter, equal to the pension reserve liabilities of the mortality reserve fund, created in Article II of this Chapter, shall be transferred to the said mortality reserve fund. The remainder of the assets credited to the Chapter XXIV retirement trust fund shall be transferred to the pension accumulation fund, created in Article II of this Chapter.

### Sec. 2. Transfer of liabilities.

The City of Phoenix employees retirement plan, created and established in Article II of this Chapter, shall assume liability for all benefits payable and to be payable under the repealed Chapter XXIV system as provided for in Article I of this Chapter.

### Sec. 3. Transfer of records, equipment and other property.

All records, books and papers, office equipment, supplies and other property belonging to the repealed Chapter XXIV system shall be transferred to and become the property of the City of Phoenix employees retirement plan.

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\***Editor's note**—The section catchlines in art. III were added by the editor.

**Sec. 4. Securities.**

All securities belonging to the Phoenix City employees retirement system registered in the name of the Phoenix City employees retirement system may continue to be so registered until disposed of.

**Sec. 5. Effective date.**

This Article III shall be in force and effect after December 31, 1953.

**Editor's note**—Ordinance states December 24, 1953. Official ballot and authentication of amendment printed as December 31, 1953.

**ARTICLE IV. RETROACTIVE EMPLOYER  
SOCIAL SECURITY TAXES\*****Sec. 1. Payment authorized.**

The City Council is hereby authorized to pay to the Treasurer of the State of Arizona such

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\***Editor's note**—The section catchlines in art. IV were added by the editor.



portion of the funds appropriated in the City of Phoenix budget for the fiscal year beginning July 1, 1953 as are required to pay the employer social security taxes accrued on and after January 1, 1951 and to July 1, 1954, in accordance with the agreement entered into between the Federal Security Administrator and the State of Arizona.

**Sec. 2. Effective date.**

This Article IV shall be in force and effect December 30, 1953.

**CHAPTER XXV. PERSONNEL SYSTEM**

**Sec. 1. Purpose and policy.**

1. It is the purpose of this chapter to designate those City employees in the classified services; set forth the rights and privileges of those employees; and to state the City's obligations in establishing and maintaining a merit system.

2. The City has determined the necessity of establishing a merit system of personnel administration based on merit principles and professional methods governing the appointment, tenure, promotion, transfer, layoff, separation, discipline, and other incidents of employment relating to City employees. These merit principles include:

- a. Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applications for initial appointment;
- b. Providing equitable and adequate compensation;
- c. Training employees, as needed, to assure high-quality performance;

- d. Retaining employees on the basis of the adequacy of their performance, and separating employees whose inadequate performance cannot be corrected;
- e. Assuring impartial treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed or handicap, and with proper regard for their privacy and constitutional rights as citizens; and
- f. Assuring that employees are protected against coercion for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

(Election of 11-3-1981)

**Sec. 2. Civil Service Board.**

1. There is hereby created a Civil Service Board to consist of five (5) residents, citizens and electors of the City to be appointed by the City Council, to serve (3)-year staggered terms to be fixed by the Council.

2. In the event of a vacancy, the vacancy shall be filled through an appointment by the Mayor for the unexpired term, subject to the approval of the Council. Not more than three (3) of the members shall be adherents of the same political party, and no member shall hold any other salaried public office.

3. Three (3) Board members shall constitute a quorum for the transaction of Business. Any Board member who fails to attend meetings of the Board in accordance with attendance standards set by the Council for City boards and commissions may be removed from his/her membership by the Council.

(Election of 11-3-1981)

**Sec. 3. Powers and duties of the Board.**

The Board shall:

1. Adopt such rules and hold such hearings as it finds necessary in order to perform the duties and responsibilities vested in it by this chapter.
2. Submit periodic advisory reports to the Council regarding the activities of the Board as they relate to the application of merit principles in City personnel management.
3. Notwithstanding the provisions of Chapter III, Section 2B(1) of this Charter the Board shall hear appeals from disciplinary demotions, discharges, and suspensions by classified employees who have completed the prescribed probationary period. The Board may delegate to hearing officers the authority to conduct hearings. The decisions of the Board shall be final and binding.
4. Administer oaths, compel attendance of and examine witnesses and compel production of and examine documents.
5. Hear appeals from classified employees from interpretations of the personnel rules approved by the Council.
6. Propose personnel rules and amendments thereto.

(Election of 11-3-1981)

**Sec. 4. Legal representation.**

The Board may retain legal counsel as necessary to serve as an advisor to the Board.

(Election of 11-3-1981)

**Sec. 5. City service.**

1. The City positions exempt from classified service shall be comprised of:

- a. Elected officials.

- b. Personal secretary to the Mayor and such staff to the Mayor as may be authorized by ordinance.
- c. City Judges.
- d. City Manager.
- e. Personal Secretary to the City Manager.
- f. Assistant City Attorneys.
- g. Interns.
- h. All part time and temporary employees.
- i. Assistant City Manager.
- j. Department heads.
- k. Urban Service Managers.
- l. Street Transportation Administrator.
- m. Executive Assistant to the Council.
- n. Assistant to the City Manager.
- o. Executive Assistant to the City Manager.
- p. Special Assistant to the City Manager.
- q. And such other positions designated by the City Manager that are consistent with items d. through p.

2. The classified service shall be comprised of all other positions in the employ of the City existing on the effective date of this chapter. (Election of 11-3-1981)

**Sec. 6. Personnel Official.**

The City Manager shall be the City's Personnel Official. The City Manager may delegate any of the powers and duties conferred upon him as Personnel Official to any other officer or employee of the City.

The Personnel Official shall:

1. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the Civil Ser-

vice Board pursuant to Sec. 3 herein or to the City Council pursuant to Sec. 7 herein.

2. Propose and promulgate personnel rules and amendments thereto.
3. Enforce approved personnel rules.
4. Prepare a position classification plan.
5. Prepare and maintain a compensation plan covering all employees.
6. Provide recruitment and selection for positions in the classified and unclassified service.
7. Perform all other duties required to administer the City Personnel System.  
(Election of 11-3-1981)

**Sec. 7. Action Required by Council.**

The Council shall approve by ordinance, resolution or formal action the:

1. Personnel rules.
2. Position classification plan.
3. Compensation plan.  
(Election of 11-3-1981)

**Sec. 8. Proposal and promulgation of personnel rules.**

1. The Personnel Official or the Civil Service Board shall propose personnel rules. Subject to approval by the City Council the Personnel Official shall promulgate such rules after notice and opportunity for comments from affected parties are given.

2. The rules shall establish regulations, subject to the provisions of this chapter and related ordinances, governing the Personnel System including but not limited to the following:

- a. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the City service.

- b. Preparation, installation, revision and maintenance of a compensation plan covering all positions in the City service.
- c. Selection practices and procedures.
- d. Establishment of probationary periods.
- e. Evaluation of employees during the probationary and continuing periods of employment.
- f. Appointment, transfer, promotion, demotion, reinstatement, disciplinary action and layoff and recall of employees in the City service.
- g. Administration of sick, industrial and military leaves.
- h. Separation of employees from the City service.
- i. The establishment of adequate personnel records.
- j. The establishment of appeal procedures concerning the administration of this chapter and any rules adopted hereunder.
- k. Employee residence requirements.  
(Election of 11-3-1981)

**Sec. 9. Equal employment opportunity.**

The City shall administer the Personnel System in a manner consistent with federal, state and local laws, rules and regulations concerning equal employment opportunity and affirmative action.

(Election of 11-3-1981)

**Sec. 10. Employees to retain positions.**

Notwithstanding the provisions of Section 5 above, all employees who were deemed as "classified" at the time this chapter takes effect shall remain as "classified" employees until

discharged, demoted, or promoted in accordance with the provisions of this chapter, and the personnel rules governing same.  
(Election of 11-3-1981)

**Sec. 11. Political activity.**

1. No officer or employee of the City shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution on behalf of any candidate for City of Phoenix elective office from any person holding a position with the City.

2. No person holding a position with the City, except elected officials, shall take any part in political management, affairs or campaigns in any election for City of Phoenix elective office further than to vote and privately express opinions.  
(Election of 11-3-1981)

**Sec. 12. Penalty.**

Any person violating any provisions of this Chapter is guilty of a Class I misdemeanor.  
(Election of 11-3-1981)

**Sec. 13. Repeal.**

Article VI entitled "Civil Service" of Chapter 2 of the Code of the City of Phoenix, 1969, is hereby repealed.  
(Election of 11-3-1981)

**Sec. 14. Strikes and binding arbitration prohibited.**

A. The continued availability of City facilities and services is essential to the health, safety, and general welfare of all of the residents of the City and decisions relating to them should be informed management choices which are neither coerced by strikes nor imposed by third parties.

B. An employee of the City of Phoenix shall not in any manner participate in any strike against the City of Phoenix or any of its agencies.

C. Violation of this section by an employee of the City of Phoenix shall constitute a voluntary resignation from City employment and such employee forfeits and is no longer entitled to civil service, seniority, merit system or other employment protection. Following resignation by participating in a strike against the City of Phoenix, such employee shall not be eligible for rehire except by specific determination by the City Manager. Any employee thus rehired shall be placed in the class from which he resigned and in a pay grade at least one step below the one occupied at the time of resignation, except that an employee rehired under this paragraph who was at the lowest pay step in his class at the time of his resignation may be rehired at the pay step occupied at that time. Any employee rehired under the terms of this paragraph shall receive no increase in wages, salary, or employer contribution to any other benefits for a period of 12 months following his rehire.

D. A classified employee may have his alleged violation of this section adjudicated in accordance with the procedures used for testing terminations under the City of Phoenix civil service system. The only issue to be thus adjudicated shall be whether or not the employee violated this section.

**E. Definitions.**

(1) "Employee" means any persons holding any position with the City of Phoenix, by hire or by appointment, and includes both classified and unclassified positions under the City's civil service system.

- (2) "Strike" means the failure to report for duty, the absence from one's position, the stoppage or deliberate slowing down of work or the withholding, in whole or in part, of the full, faithful and proper performance of the duties of employment, in concerted or contemporaneous action with others, for the purpose of inducing, influencing or coercing a change in the conditions, hours, compensation, rights, privileges or obligations of employment by the City of Phoenix.

F. The City of Phoenix may not use or agree to a method or procedure for determining the compensation, hours and conditions of employment of its employees, including binding interest or grievance arbitration, which prohibits the City Council or the City Manager from disapproving or altering such determinations. Alteration or disapproval by the City Council shall be by a simple majority of those members of the Council present and voting. Nor shall the City be subjected to such methods or procedures by any other governmental entity.

G. Except for the prohibition contained in paragraph F., above, all other decisions regarding methods or procedures for determining the compensation, hours, and conditions of employment of City of Phoenix employees are reserved to and are to be made by the City Council or the City Manager.

H. If any of the provisions of these amendments, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these amendments which can be given effect without the invalid provision or application, and to this end, the provisions of these amendments are declared to be severable.

I. The provisions of this article shall be self-executing.

(Election of 11-1-1983)

## **CHAPTER XXVI. CITY OF PHOENIX MOUNTAIN PRESERVES**

### **Sec. 1. Mountain Preserves—Defined.**

As used in this Chapter "Mountain Preserves" means all real property included within any of the following categories:

- (a) That real property owned by the City at the time of adoption of this Chapter lying within any generally recognized mountain preserve area.
- (b) That real property purchased by the City in whole or in part with the proceeds of those General Obligation Bonds issued by the City pursuant to proposition Number 10 of the Special Bond Election held May 22, 1979; or
- (c) That real property constituting mountain space open preserves purchased by the City in whole or in part with the proceeds of those General Obligation Bonds issued by the City pursuant to proposition Number 14 of the Special Bond Election held June 5, 1984; or
- (d) That real property designated as "Mountain Preserves" by the City Council by ordinance upon the recommendation of the Parks and Recreation Board.

(Election of 11-5-1985)

### **Sec. 2. Disposition of Mountain Preserve property.**

In no event shall any real property within any City Mountain Preserve be sold, traded or otherwise alienated, redesignated or deleted from the Mountain Preserve except by approval

of a majority of the electors voting thereon, provided that Mountain Preserve property may be traded if such trade is approved by the Council by ordinance prior to January 1, 1989 in accordance with the provisions set forth in this Chapter.

(Election of 11-5-1985)

### **Sec. 3. Use of Mountain Preserve property.**

(a) The City Council shall, upon the recommendation of the Parks and Recreation Board, establish by ordinance such permitted uses of the Mountain Preserves as are consistent with the following objectives:

1. Maintain the Mountain Preserves, including native plant and animal communities, in their natural state to the maximum extent practicable; and
2. Provide cultural, educational and recreational opportunities primarily designed to heighten appreciation and enjoyment of the Arizona desert environment; and
3. Provide equestrian, pedestrian (including handicapped) and vehicular (whether motorized or otherwise) access into the Mountain Preserves to the extent consistent with the foregoing objectives.

(b) The Mountain Preserves shall not be used except for a permitted use established by the City Council pursuant to this Section.

(c) The City Council shall at all times have the power and authority within and in conjunction with any City Mountain Preserve to take appropriate action to:

1. Dedicate necessary rights-of-way and easements required for improving and widening of existing arterial streets and streets adjacent to Mountain Preserve lands.

2. Make half-street dedications of Mountain Preserve lands as necessary to coordinate with development of adjacent private property, thereby providing street frontage adjacent to Preserve lands.

3. Provide necessary access and utility easements to private parcels within any Mountain Preserve.

4. Develop to the extent necessary City-owned flood control and water treatment facilities located within a City Mountain Preserve area.

(Election of 11-5-1995)

### **Sec. 4. Trading of City Mountain Preserve property.**

(a) City-owned real property within any City Mountain Preserve may be traded for other real property upon approval by the City Council by ordinance prior to January 1, 1989 in accordance with the provisions of subsection (b) of this Section.

(b) No trade of City-owned real property within any City Mountain Preserve shall be approved unless the City Council finds that the trade is consistent with the following criteria:

1. The transaction shall contribute land of equal or greater value to the Mountain Preserve.
2. The total Mountain Preserve acreage shall be increased.
3. Access for the public shall not be unreasonably impaired.
4. Trail access shall be improved or not impaired.
5. All property acquired shall be contiguous to existing Mountain Preserve boundaries.

6. Neighborhoods adjacent to exchange parcels shall be enhanced to the extent possible and such neighborhoods shall be notified of Parks Board and City Council hearings on proposed trades in a manner similar to the notice provided for zoning hearings.
7. Mountain Preserve property exchanged by the City to acquire additional property shall be conveyed with the condition that the property be used only for purposes compatible with the uses of adjacent Mountain Preserve property and all property acquired by the City shall become part of the Mountain Preserve.
8. Any adopted Mountain Preserve Master Plan shall be reviewed in connection with any trade of Mountain Preserve property.  
(Election of 11-5-1985)

**Sec. 5. An initiative measure to prevent sale, trade, alienation, redesignation, lease or other deletion or removal of any City Mountain Preserve land without approval of a majority of electors voting thereon.**

Notwithstanding any other provision of the Charter of the City of Phoenix, no land within any City Mountain Preserve, as that term is defined in Chapter XXVI of the Charter of the City of Phoenix, shall be sold, traded, alienated, redesignated, leased, or otherwise deleted or removed from the Mountain Preserve except by approval of a majority of electors voting thereon.  
(Election of 12-9-1986)

**CHAPTER XXVII. VOTER APPROVAL FOR CERTAIN PUBLIC EXPENDITURES; LIMITATION ON EMERGENCY CLAUSE\***

A. Notwithstanding any other provision of the charter of the City of Phoenix, **the city shall not expend public funds, grant tax concessions or relief, or incur any form of debt in an amount greater than three million dollars, and/or exchange or grant city-owned land of a fair market value of three million dollars to construct or aid in the construction of any amphitheater, sports complex or arena, stadium, convention facility or arena without approval of the majority of the electorate voting thereon at the next general election.**

B. Notwithstanding any other provision of the Charter of the City of Phoenix, the Council shall not enact with an emergency clause any ordinance providing for any expenditure in excess of three million dollars in connection with any construction or development of any project involving non-essential City services.

C. The following definitions shall be used in this chapter:

1. "Expenditures" means any direct or indirect payment of money, the granting of tax concessions or relief, or the incurring of any form of debt.
2. "Emergency clause" means any provision that has the effect of causing an ordinance to become effective immediately or that denies or limits, in any way, the right to refer an ordinance to the ballot.

**\*Editor's note**—It should be noted that at the election of March 13, 2001, certified on Oct. 9, 2002, and approved Oct. 22, 2002, the title and text of Ch. XXVII, were modified to read as herein set out.

3. "Non-essential City services" means all services other than those set forth in paragraph D. below.

D. The provisions of this chapter do not apply to any ordinance providing for expenditures, including capital expenditures and debt service in connection with aviation, courts, fire, police, public transit, solid waste, streets, streetscapes, parking, wastewater, water, public utilities, stormwater, environmental safety, risk management, insurance and self-insurance, public health or safety, public housing, equipment maintenance, parks, recreation and libraries.  
(Election of 10-3-1989; election of 3-13-2001)